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January 28, 1998

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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

WHEN: February 17, 1998 at 9:00 am.
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Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 63, No. 18
Wednesday, January 28, 1998

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–101–1]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by designating as quarantined areas all or portions of 10 counties in North Carolina, 3 counties in Oklahoma, 5 counties in South Carolina, 15 counties in Tennessee, and 13 counties in Texas. This action expands the areas quarantined for imported fire ant and imposes certain restrictions on the interstate movement of regulated articles from those areas. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: Interim rule effective January 28, 1998. Consideration will be given only to comments received on or before March 30, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–101–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–101–1. 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 are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–5255; or e-mail: rmilberg@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10, and referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of certain regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

Imported fire ant, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive, stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations prevent the imported fire ant from spreading throughout its ecological range within this country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with imported fire ants. The Administrator will designate less than an entire State as a quarantined area only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from an infested locality for quarantine purposes.

We are amending § 301.81–3(e) by designating all or portions of the following counties as quarantined areas: Cabarrus, Dare, Greene, Mecklenburg, Montgomery, Moore, Pitt, Sampson, Stanly, and Wayne Counties in North Carolina; Choctaw, Comanche, and Johnston Counties in Oklahoma; Cherokee, Oconee, Pickens, Spartanburg, and York Counties in South Carolina; Bradley, Chester, Decatur, Fayette, Franklin, Giles, Hamilton, Henderson, Lawrence, Lincoln, Marion, McMinn, Polk, Shelby, and Wayne Counties in Tennessee; and Brown, Ector, Hidalgo, Jones, Kimble, La Salle, Maverick, Midland, Palo Pinto, Red River, Stephens, Val Verde, and Willacy Counties in Texas. We are taking this action because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to these areas. See the rule portion of this document for specific descriptions of the new quarantined areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the artificial spread of the imported fire ant into noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action affects the interstate movement of regulated articles from specified areas in North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. Affected entities include nurserymen, sod and hay growers, farm equipment dealers, construction companies, and others who sell, process, or move regulated articles interstate. There are approximately 890

establishments within the newly regulated areas that could be affected by this interim rule; nearly 98 percent of these are small entities. However, most of the sales for these entities are local intrastate or within the regulated area, and would not be affected by this regulation.

The effect on those entities that do move regulated articles interstate is minimized by the availability of various treatments that, in most cases, will permit the movement of regulated articles with very little additional cost. Treatment costs range between $30 and $50 per shipment. The total projected annual cost of treatment required as a result of this rule is approximately $83,380. In 1992, the sales of nursery stock, sod, hay, and other regulated articles in the newly regulated areas had a market value of approximately $77 million. The potential costs to affected entities of treatments required as a result of this rule are minimal compared to the total value of regulated articles sold in these areas.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this program. The assessment provides a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were 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).

Copies of the environmental assessment and finding of no significant impact are available for pubic inspection 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 copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended as follows:

a. By adding, in alphabetical order, the entries for Cabarrus, Greene, Moore, Stanly, and Wayne Counties in North Carolina to read as set forth below;

b. By adding, in alphabetical order, the entries for Choctaw, Comanche, and Johnston Counties in Oklahoma to read as set forth below;

c. By adding, in alphabetical order, the entries for Cherokee, Oconee, Pickens, and Spartanburg Counties in South Carolina to read as set forth below;

d. By adding, in alphabetical order, the entries for Chester, Decatur, Franklin, Giles, Henderson, Lawrence, Lincoln, Marion, Polk, and Shelby Counties in Tennessee to read as set forth below;

e. By adding, in alphabetical order, the entries for Brown, Ector, Hidalgo, Jones, La Salle, Maverick, Palo Pinto, Red River, Stephens, Val Verde, and Willacy Counties in Texas to read as set forth below;

f. By revising the entries for Dare, Mecklenburg, Montgomery, Pitt, and Sampson Counties in North Carolina to read as set forth below;

g. By revising the entry for York County in South Carolina to read as set forth below;

h. By revising the entries for Bradley, Fayette, Hamilton, McMinn, and Wayne Counties in Tennessee to read as set forth below; and

i. By revising the entries for Kimble and Midland Counties in Texas to read as set forth below.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

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North Carolina

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Cabarrus County. That portion of the county bounded by a line beginning at the intersection of the Cabarrus/Mecklenburg County line and State Highway 73; then east along State Highway 73 to U.S. Highway 601 Business; then southeast along U.S. Highway 601 Business to State Highway 200; then southeast along State Highway 200 to the Cabarrus/Stanly County line; then south along the Cabarrus/Stanly County line to the Cabarrus/Union County line; then northwest along the Cabarrus/Union County line to the Cabarrus/Mecklenburg County line; then northwest along the Cabarrus/Mecklenburg County line to the point of beginning.

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Dare County. The entire county, excluding the portion of the barrier islands south of Oregon Inlet.

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Greene County. That portion of the county beginning at the intersection of the Greene/Lenoir County line and U.S. Highway 258; then north along U.S. Highway 258 to the Greene/Pitt County line; then south along the Greene/Pitt County line to the Greene/Lenoir County line; then southwest along the Greene/Lenoir County line to the point of beginning.

* * * * *

Mecklenburg County. That portion of the county beginning at the intersection of the Mecklenburg/Cabarrus County line and State Road 2459 (Eastfield Road); then south along State Road 2459 (Eastfield Road) to State Highway 115; then north along State Highway 115 to State Road 2117 (Hambright Road); then west along State Road 2117 (Hambright Road) to State Road 2074 (Beatties Road/Neck Road); then west along State Road 2074 (Beatties Road/Neck Road) to the Catawba River; then south along the shoreline of the Catawba River to the North Carolina/South Carolina State line; then east, north, and west along the North Carolina/South Carolina State line to the Mecklenburg/Union County line; then northeast along the Mecklenburg/Union County line to the Mecklenburg/Cabarrus County line; then northwest along the Mecklenburg/Cabarrus County line to the point of beginning.

Montgomery County. The entire county.

Moore County. That portion of the county bounded by a line beginning at the intersection of the Moore/Chatham County line and State Highway 22; then south along State Highway 22 to State Highway 24/27; then east along State Highway 24/27 to State Road 1805 (Union Church Road); then southeast along State Road 1805 (Union Church Road) to U.S. Highway 1; then south along U.S. Highway 1 to State Road 1001 (Lobelia Road); then southeast along State Road 1001 (Lobelia Road) to the Moore/Cumberland County line; then north along the Moore/Cumberland County line to the Moore/Harnett County line; then north, west, and east along the Moore/Harnett County line to the Moore/Lee County line; then northwest along the Moore/Lee County line to the Moore/Chatham County line; then west along the Moore/Chatham County line to the point of beginning.

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Pitt County. The entire county.

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Sampson County. That portion of the county bounded by a line beginning at the intersection of the Sampson/Cumberland County line and U.S. Highway 13; then northeast along U.S. Highway 13 to the Sampson/Wayne County line; then southeast along the Sampson/Wayne County line to the Sampson/Duplin County line; then south and east along the Sampson/Duplin County line to the Sampson/Pender County line; then southwest along the Sampson/Pender County line to the Sampson/Bladen County line; then northwest along the Sampson/Bladen County line to the Sampson/Cumberland County line; then northwest along the Sampson/Cumberland County line to the point of beginning.

* * * * *

Stanly County. That portion of the county bounded by a line beginning at the intersection of the Stanly/Cabarrus County line and State Highway 24/27; then east along State Highway 24/27 to the Stanly/Montgomery County line; then south along the Stanly/Montgomery County line to the Stanly/Anson County line; then west along the Stanly/Anson County line to the Stanly/Union County line; then west along the Stanly/Union County line to the Stanly/Cabarrus County line; then north along the Stanly/Cabarrus County line to the point of beginning.

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Wayne County. That portion of the county bounded by a line beginning at the intersection of the Wayne/Duplin County line and U.S. Highway 117; then north along U.S. Highway 117 to State Highway 111; then north along State Highway 111 to State Road 1003 (New Hope Road); then east along State Road 1003 (New Hope Road) to State Road 1714 (Parkstown Road); then east along State Road 1714 (Parkstown Road) to the Wayne/Lenoir County line; then south along the Wayne/Lenoir County line to the Wayne/Duplin County line; then west along the Wayne/Duplin County line to the point of beginning.

Oklahoma

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Choctaw County. The entire county.

Comanche County. The entire county.

Johnston County. The entire county.

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South Carolina

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Cherokee County. That portion of the county bounded by a line beginning at the intersection of the Cherokee/Spartanburg County line and Interstate Highway 85; then north along Interstate Highway 85 to the South Carolina/North Carolina State line; then east along the South Carolina/North Carolina State line to the Cherokee/York County line; then south along the Cherokee/York County line to the Cherokee/Union County line; then northwest along the Cherokee/Union County line to the Cherokee/Spartanburg County line; then northwest along the Cherokee/Spartanburg County line to the point of beginning.

* * * * *

Oconee County. That portion of the county bounded by a line beginning at the intersection of the South Carolina/Georgia State line and U.S. Highway 123; then east along U.S. Highway 123 to U.S. Highway 76; then southeast along U.S. Highway 76 to State Highway 183; then northeast along State Highway 183 to Oconee County Road 107; then east along Oconee County Road 107 to State Highway 11; then north along State Highway 11 to State Highway 183; then east along State Highway 183 to the Oconee/Pickens County line; then south along the Oconee/Pickens County line to the Oconee/Anderson County line; then southwest along the Oconee/Anderson County line to the South Carolina/Georgia State line; then northwest along the South Carolina/Georgia State line to the point of beginning.

* * * * *

Pickens County. That portion of the county bounded by a line beginning at the intersection of the Pickens/Oconee County line and State Highway 183; then northeast along State Highway 183 to Pickens County Road 160; then southeast along Pickens County Road 160 to State Highway 133; then south along State Highway 133 to Pickens County Road 15; then southeast along Pickens County Road 15 to State Highway 93; then northeast along State Highway 93 to Pickens County Road 395; then east along Pickens County Road 395 to Pickens County Road 27; then south along Pickens County Road 27 to U.S. Highway 123; then northeast along U.S. Highway 123 to U.S. Highway 178; then south along U.S. Highway 178 to the Pickens/Anderson County line; then southwest along the Pickens/Anderson County line to the Pickens/Oconee County line; then north along the Pickens/Oconee County line to the point of beginning.

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Spartanburg County. That portion of the county bounded by a line beginning at the intersection of the Spartanburg/Greenville County line and State Highway 357; then northeast along State Highway 357 to Spartanburg County Road 38; then east along Spartanburg County Road 38 to U.S. Highway 176; then southeast along U.S. Highway 176 to Spartanburg County Road 56; then east along Spartanburg County Road 56 to U.S. Highway 221; then northeast along U.S. Highway 221 to Spartanburg County Road 105; then southeast along Spartanburg County Road 105 to State Highway 110; then north along State Highway 110 to the Spartanburg/Cherokee County line; then south along the Spartanburg/Cherokee County line to the Spartanburg/Union County line; then southwest along the Spartanburg/Union County line to the Spartanburg/

Laurens County line; then northwest along the Spartanburg/Laurens County line to the Spartanburg/Greenville County line; then northwest and north along the Spartanburg/Greenville County line to the point of beginning.

* * * * *

York County. The entire county.

Tennessee

Bradley County. The entire county.

Chester County. The entire county.

Decatur County. That portion of the county lying south of State Highway 100.

Fayette County. That portion of the county lying south of U.S. Highway 64. That portion of the county lying east of State Highway 76.

Franklin County. That portion of the county lying south of latitude 35°5′.

Giles County. That portion of the county lying south of U.S. Highway 64.

Hamilton County. The entire county.

* * * * *

Henderson County. That portion of the county lying south of State Highway 100.

Lawrence County. That portion of the county lying south of U.S. Highway 64.

Lincoln County. That portion of the county lying south of latitude 35°5′.

Marion County. That portion of the county lying south of latitude 35°10′.

McMinn County. That portion of the county lying south of latitude 35°20′.

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Polk County. The entire county.

Shelby County. That portion of the county lying south of latitude 35° 13′.

Wayne County. The entire county.

Texas

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Brown County. The entire county.

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Ector County. The entire county.

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Hidalgo County. The entire county.

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Jones County. The entire county.

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Kimble County. The entire county.

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La Salle County. The entire county.

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Maverick County. The entire county.

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Midland County. The entire county.

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Palo Pinto County. The entire county.

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Red River County. The entire county.

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Stephens County. The entire county.

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Val Verde County. The entire county.

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Willacy County. The entire county.

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Done in Washington, DC, this 22nd day of January 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–2050 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–44; Amendment 39–10291; AD 98–02–08]

RIN 2120–AA64

Airworthiness Directives; Certain Textron Lycoming 320 and 360 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Textron Lycoming 320 and 360 series reciprocating engines, that requires visual inspections of the inside diameter (ID) of the crankshaft for corrosion pits, and if corrosion pits are found during this inspection, prior to further flight, performing a magnetic particle inspection (MPI) or fluorescent penetrant inspection (FPI) of the ID for cracks. In addition, this AD requires reporting findings of inspections to the FAA. Finally, terminating action to the inspections of this AD is the application of a preventive treatment coating on non-corroded crankshafts to prevent corrosion. This amendment is prompted by reports of cracks in crankshafts originating from corrosion pits in the ID. The actions specified by this AD are intended to prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

DATES: Effective March 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Textron Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080, fax (717) 327–7100. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli or Raymond Reinhardt , Aerospace Engineers, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581–1200; telephone (516) 256–7531 , fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On October 18, 1993, the Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom (UK), received a report that a Piper PA–28–161 aircraft, with a Textron Lycoming O–320–D3G reciprocating engine installed, executed a forced landing due to an engine crankshaft failure which caused the propeller to separate from the aircraft. The cause of the crankshaft failure was determined to be due to a high cycle fatigue mechanism that had initiated from a number of corrosion pits in the crankshaft bore. After the cracks had progressed through a substantial proportion of the crankshaft section, the rate of advance had increased until the remaining unseparated portion had failed as a result of overload. The cracking occurred in high cycle fatigue and it had progressed over an extended period of service. At the time of the accident the engine had operated for 1,950 hours time in service (TIS) since overhaul and had accumulated 4,429 hours total time since new over a period of 16 years. In addition, the Federal Aviation Administration (FAA) has confirmed that four other failures in the United States and 10 in foreign countries were due to cracks initiating from corrosion pits in the crankshaft bore on certain Textron Lycoming 320 and 360 reciprocating engines with ratings of 160 horsepower or greater. Of the 10 failures in foreign countries, four resulted in the propeller separating from the aircraft inflight. Three of these four were from 1993 to 1996. The FAA utilized metallurgical failure analysis reports and other information to conclude that these failures were due to cracks originating from corrosion pits. This condition, if not corrected, could result in crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would

apply to Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines, was published in the **Federal Register** on November 28, 1995 (60 FR 58580); the comment period was reopened in a reprinting of the original proposal on April 8, 1996 (61 FR 15430). That action proposed to require initial and repetitive inspections of the crankshaft inside diameter (ID) for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. In addition, the proposed AD would have permitted operation of engines with crankshafts that were found to have corrosion pits but were free of cracks provided repetitive inspections were performed until the next engine overhaul or 5 years after the initial inspection, whichever occurred first, at which time the proposed AD would have required those crankshafts with corrosion pits but no cracks to be replaced. Those proposed actions would be performed in accordance with Textron Lycoming Mandatory Service Bulletin (MSB) No. 505A, dated October 18, 1994.

The FAA had determined that fluorescent penetrant inspections (FPI) were warranted if corrosion pits were found. The FPI inspection program was developed due to reports from Textron Lycoming and other approved repair stations that most of the crankshafts that are pitted do not contain cracks. The FAA determined that visual inspections alone were not sufficient to detect a crack. The FPI inspection was based on crack propagation data developed by the FAA in conjunction with Textron Lycoming and with consideration of the technical base in the U.S. for performing nondestructive inspections. The FPI process was shown to be reliable for detection of cracks down to 0.050 inches in depth and 0.100 inches in length. The FPI inspection interval was based on the crack propagation data such that a crack could be reliably detected before the crankshaft failed. If an installed engine was found to have a pitted crankshaft, the FAA did not propose to allow the removal of metal to remove the corrosion pits due to possible contamination of the engine oil supply with metal filings and to ensure that the concentricity of the crankshaft would not be compromised.

Interested persons were afforded an opportunity to participate in the making of this amendment. Over 200 comments were received in response to the initial NPRM. In addition, the FAA met with the Aircraft Owners and Pilots Association (AOPA), Aeronautical Repair Station Association (ARSA), and Textron Lycoming to discuss the data that formed the basis for this action. A summary of that meeting is contained in the docket file.

A Supplemental Notice of Proposed Rulemaking (SNPRM), in response to the comments, was published in the **Federal Register** on January 3, 1997 (62 FR 343). That SNPRM fully addressed the comments received in response to the NPRM and the issues raised at the meeting with AOPA, ARSA, and the manufacturer. That action proposed to revise the proposal by limiting the applicability of the proposed AD to only certain Textron Lycoming 320 and 360 series reciprocating engines, excluding additional engines installed in helicopters; permitting any certificated mechanic holding an airframe or powerplant rating to perform the FPI; permitting continued use of a pitted crankshaft as long as repetitive FPI inspections are performed; and deleting the five year limit on the use of crankshafts that are pitted but not cracked. Also, the FAA received new cost information, and revised the economic analysis with respect to the initial inspection time, the time to remove and replace crankshafts, the cost of the replacement crankshafts, and the cost for repetitive FPI inspections. Finally, the revised proposal introduced a public reporting survey to provide the FAA with a broader database on the condition of crankshafts when observed during the initial inspections.

Twenty-one comments were received in response to the SNPRM. Due consideration has been given to the comments received.

Seven commenters state that there have not been enough crankshaft failures to justify the AD, that the proposed actions are too costly, and that the FAA should acquire more data before promulgating this rule. The FAA does not concur. As stated in the SNPRM, the FAA received data and studies that substantiated the need for an AD. These studies and data confirm the crankshaft fracture occurred at a stress concentration caused by a corrosion pit on the inside of the crankshaft. In addition, since the NPRM was issued, six additional crankshaft failures on 160 horsepower Textron Lycoming engines are being investigated. The FAA has, however, performed additional analysis to limit the population of engines impacted by this proposed AD and has deleted the five year limit on pitted crankshafts undergoing repetitive FPI inspections. These measures will decrease the cost of the AD to the public.

Two commenters state that the corrosion problem is caused by a design flaw; i.e., the crankshafts should be solid instead of hollow. The FAA does not concur. A coating has been incorporated on the inside bore of new crankshafts shipped in engines and as spares from Textron Lycoming since February 15, 1997. Textron Lycoming has issued Service Bulletin (SB) No. 530 dated December 1, 1997, which describes applying Urethabond 104 as a protective coating on the inside bore of the crankshafts. This coating should only be applied during overhaul due to the preparation requirement of degreasing the inside bore prior to the application of the coating.

One commenter states that a dye penetrant inspection should be performed in lieu of the FPI, as it is more accurate in detecting cracks. The FAA does not concur. Dye penetrant actually includes both visible dye and fluorescent dye penetrant techniques. Recent use of the term within the inspector community has limited the meaning to visible dye penetrant. The reliability of inspection data available to the FAA indicates that FPI has a better probability of detection than visible dye penetrant (color contrast) inspection. The preferred dye penetrant inspection method is the FPI method.

One commenter states that a magnetic particle inspection (Magnaflux) should be performed in lieu of the FPI, as it is more accurate in detecting cracks. The FAA concurs in part. The magnetic particle inspection (MPI) is the preferred method with the shaft removed from the engine at overhaul. An FPI should only be performed if the crankshaft is installed in the engine such as during an on-wing inspection. An MPI should not be performed with the crankshaft installed in the engine due to the difficulty in obtaining a suitable magnetic field. In addition, the residual field effects after the demagnetization process may have a harmful effect on the rotating components in the engine, including the bearings.

One commenter states that the AD should take into consideration the operation and service history for each engine in specifying corrective action. The FAA partially concurs. The FAA has taken into consideration service history and has limited the applicability of this AD to engines with 160 hp or greater. The survey to be completed for the initial inspection of the crankshaft may aid the FAA in determining other causal effects which may be used for future rulemaking.

Five commenters state that the AD should require application of a preventive treatment on the inside bore of the crankshaft to prevent future corrosion. The FAA concurs. Textron

Lycoming has developed a preventive treatment known as Urethabond 104 and has issued MSB No. 530, dated December 1, 1997, which describes procedures for applying this coating. Crankshafts that are confirmed to have the letters ''PID'' stamped on the outside diameter of the propeller flange (PID stands for Painted Internal Diameter), do not require the inspection requirements of this AD. The application of the Urethabond 104 coating constitutes terminating action for the inspection requirements of this AD.

One commenter states that the FAA should impose a life limit of 4,000 hours time in service on all affected crankshafts. The FAA does not concur. To date, the FAA has no data from Textron Lycoming nor from any other source which would substantiate a 4,000 hour time in service life limit.

Two commenters state the FAA should distinguish in the AD between major and minor pitting action. The FAA does not concur. The FAA has no data to substantiate taking action for a minor versus a major pit other than what is presented in Textron Lycoming MSB 505B. The survey to be completed for the initial inspection of the crankshaft may assist the FAA in determining a relationship between the number of pits and the number of crankshafts cracked. This information may be used for future rulemaking.

One commenter states that pitted crankshafts should be replaced at overhaul. The FAA partially concurs. Textron Lycoming MSB 505B requires that the crankshaft be replaced at overhaul if it is pitted. However, from the data the FAA has received to date, many crankshafts are pitted but not cracked. In addition, the FAA has received no substantiation from Textron Lycoming or other sources to justify replacing a pitted crankshaft at overhaul as long as it has received an MPI and has been determined to have no cracks; and, when the engine is reinstalled in an aircraft, an FPI is performed every 100 hours TIS to ensure that the crankshaft is not cracked. The inspection survey will be utilized by the FAA to determine the number of engines under repetitive FPI inspections, the number of crankshafts that are found to be cracked, whether another failure mechanism is contributing to the crankshaft failures, and possible adjustment of the repetitive inspection interval. The information obtained by this survey may lead to future rulemaking.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The total number of engines impacted worldwide is 16,357 (11,000, 160 hp, 320 series; and 5,357, 360 Series). The FAA estimates that 60% of that number, 9,814 engines are installed on aircraft of U.S. registry, and are affected by this AD. The FAA estimates that it will take approximately 8 work hours per engine to accomplish the initial visual inspection, and that the average labor rate is $60 per work hour; therefore the estimated cost impact for the initial visual inspections would be $4,710,720. The FAA also estimates, based on information received from the UK CAA regarding the number of engines undergoing repetitive inspections in the UK due to the UK CAA AD on the same subject, that 12%, or 1,178, of the affected engines may contain crankshafts that require FPI. The FAA estimates that each FPI will take approximately 8 hours, and that operators with corroded crankshafts may perform one FPI per year. The estimated cost for the repetitive FPI, therefore, is $565,286 annually. Lastly, the FAA estimates that 5 crankshafts will require replacement per year due to cracks, and that it will take 38 work hours per engine to replace cracked crankshafts. Assuming that a replacement crankshaft will cost approximately $6,000 per engine, the estimated cost for replacement of 5 crankshafts will be $41,400 annually. Therefore, the total estimated cost impact of this AD is $5,317,406 for the first year, and $606,686 each year thereafter.

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:

98–02–08 Textron Lycoming: Amendment 39–10291. Docket 94–ANE–44.

Applicability: Textron Lycoming 320 series limited to 160 horsepower, and 360 series, four cylinder reciprocating engines with fixed pitch propellers; except for the following installed in helicopters or with solid crankshafts: HO–360 series, HIO–360 series, LHIO–360 series, VO–360 series, and IVO–360 series, and Models O–320–B2C, O–360–J2A, AEIO–360–B4A, O–360–A4A, –A4G, –A4J, –A4K, –A4M, and –C4F. In addition, engines with crankshafts containing ''PID'' stamped on the outside diameter of the propeller flange are exempt from the inspection requirements of this AD. The affected engines are installed on but not limited to reciprocating engine powered aircraft manufactured by Cessna, Piper, Beech, American Aircraft Corporation, Grumman American Aviation, Mooney, Augustair Inc., Maule Aerospace Technology Corporation, Great Lakes Aircraft Co., and Commander Aircraft Co.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) 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 crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft, accomplish the following:

(a) For engines shipped new from Textron Lycoming prior to and including December 31, 1984, and that have never been overhauled, or any engine remanufactured or overhauled and that has accumulated 1,000 hours or more time in service (TIS) since remanufacture or overhaul, visually inspect the inside diameter (ID) of the crankshaft for corrosion pits within the next 100 hours TIS after the effective date of this AD, or 6 months after the effective date of this AD, whichever occurs first, in accordance with Textron Lycoming Mandatory Service Bulletin (MSB) No. 505B, dated December 1, 1997.

(1) If corrosion pits are found during this inspection, prior to further flight, accomplish the following:

(i) If the crankshaft is installed in the engine such as during an on-wing inspection, perform a fluorescent penetrant inspection (FPI) in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997.

(ii) If the crankshaft is removed from the engine at overhaul, perform a magnetic particle inspection (MPI) in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997.

(2) Within 48 hours after these inspections, report the finding of the inspection in accordance with paragraph (e) of this AD.

(b) For engines shipped new from Textron Lycoming after December 31, 1984, and that have never been overhauled, or any engine remanufactured or overhauled and that has accumulated less than 1,000 hours TIS since remanufacture or overhaul, visually inspect the ID of the crankshaft for corrosion pits, at the earliest occurrence of any event specified in subparagraph (3) of this paragraph, and in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997.

(1) If corrosion pits are found during this inspection, prior to further flight perform an FPI or MPI in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997.

(2) Within 48 hours after these inspections, report the finding of the inspection in accordance with paragraph (e) of this AD.

(3) Visually inspect the ID of the crankshaft for corrosion pits at the earliest of the following:

(i) The next engine overhaul or disassembly.

(ii) Within 10 years of the original shipping date or 6 months from the effective date of this AD, whichever occurs later.

(iii) Within 1,000 hours TIS since remanufacture or overhaul, or 6 months from the effective date of this AD, whichever occurs later.

(c) Thereafter, if no corrosion pits or cracks are found on the ID of the crankshaft during the initial visual inspection, perform a visual inspection at intervals not to exceed 5 years since last inspection, or at the next engine overhaul or disassembly, whichever occurs first, in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997. If corrosion pits but no cracks are found on the ID of the crankshaft during the initial visual inspection and the ID does not exceed the maximum ID specified in Textron Lycoming MSB No. 505B, dated December 1, 1997, repeat the FPI at intervals not to exceed 100 hours TIS since last FPI or until a serviceable crankshaft is installed in the engine.

(d) Prior to further flight, remove from service and replace with a serviceable part any crankshaft found cracked during FPI or MPI performed in accordance with Textron Lycoming MSB No. 505B, dated December 1, 1997.

(e) After accomplishing the initial visual inspection and, if necessary, the FPI or MPI, required by this AD, complete Appendix 1 of this AD and submit to the Manager, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581; fax (516) 568–2716. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

Appendix 1

TEXTRON LYCOMING CRANKSHAFT INSPECTION SURVEY

AD Docket No. 94–ANE–44

Date of Inspection _____
Inspector's Information
Name _____
Address _____
State _____ Zip Code _____
Telephone No. _____
Facsimile No. _____
Engine Model Number _____
Engine Serial Number (S/N) _____
Date of Manufacture _____ (M/D/YR).
Total Time (TT) _____ hrs
Time Since Major Overhaul (SMOH) _____ hrs
Crankshaft Part Number (located on prop flange) _____ S/N _____
Aircraft Make and Model _____
Frequency of Flights _____ per month (average).
Duration _____ hrs per Flight
How was aircraft being utilized? _____ Training, _____ Personal, _____ Banner Towing, _____ Glider Towing, _____ Agricultural, Other (please explain) _____
Propeller Make and Model _____
Has the aircraft ever experienced a propeller strike during service? _____ Yes _____ No
Was propeller ever removed for servicing or overhaul? _____ Yes _____ No
If yes, describe reason for removal in detail? _____
What was the condition of the crankshaft internal bore?
Corroded ____ Yes ____ No. If corroded, how many pits? ____ 1 to 5, ____ 6 to 10, ____ More than 10 _____
Was a crack found? ____ Yes ____ No. If crack was found, complete the following:
_____ Distance from crankshaft end (Inches) _____ Crack Length (Inches)
Comments:

(f) The application of Urethabond 104 to the inner bore of the crankshaft and confirmed by stamping of the letters ''PID'' on the outside diameter of the propeller flange in accordance with Textron Lycoming MSB No. 530, dated December 1, 1997, constitutes terminating action to the inspection requirements of this AD.

(g) 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. 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 Aircraft Certification Office.

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

(h) 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 aircraft to a location where the requirements of this AD can be accomplished.

(i) The actions required by this AD shall be done in accordance with the following Textron Lycoming MSB:

Document No.	Pages	Date
505B	1–5	Dec. 1, 1997.
Total pages	5	
530	1–2	Dec. 1, 1997.
Total pages	7	

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 Textron Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080, fax (717) 327–7100. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(j) This amendment becomes effective on March 30, 1998.

Issued in Burlington, Massachusetts, on January 9, 1998.

James C. Jones,

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

[FR Doc. 98–1705 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–05; Amendment 39–10290; AD 89–23–06 R1]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–2, –3, –3B, –3C, and –5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to CFM International (CFMI) CFM56–2, –3, –3B, –3C, and –5 series turbofan engines, that currently requires repetitive magnetic chip detector (MCD) inspections and removal from service of certain No. 3 bearings. This amendment removes the requirement for MCD inspections for certain No. 3 bearings if the bearing has 6,000 or more hours time in service since new, extends the removal from service date for certain No. 3 bearings, changes the inspection interval for certain No. 3 bearings, deletes a specific No. 3 bearing part number, and replaces reference to specific maintenance manuals with service bulletins. Other requirements of the current AD remain unchanged and are carried over into this revised AD. This amendment is prompted by additional data that demonstrates a reduced bearing failure rate after a period of time in service; therefore, an acceptable level of safety can be maintained with a relaxation of some of the current AD requirements. The actions specified by this AD are intended to prevent a No. 3 bearing failure, and a subsequent inflight engine shutdown.

DATES: Effective January 28, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 28, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7132, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 89–23–06, Amendment 39–6370 (54 FR 43581, October 26, 1989), which is applicable to CFM International (CFMI) CFM56–2, –3, –3B, –3C, and –5 series turbofan engines, was published in the **Federal Register** on September 19, 1997 (62 FR 49177). That action proposed to require removing the requirement for magnetic chip detector (MCD) inspections for certain No. 3 bearings if the bearing has 6,000 or more hours time in service since new, extending the removal from service date for certain No. 3 bearings, changing the inspection interval for certain No. 3 bearings, deleting a specific No. 3 bearing part number, and replacing reference to specific maintenance manuals with service bulletins. Other requirements of the current AD remain unchanged and are carried over into this revised AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received from air carriers, both of which support the rule as proposed. No comments were received on the FAA's determination of the cost to the public.

The FAA has revised paragraphs (a)(2) and (b)(2) of this AD in order to more accurately define an ''affected No. 3 bearing.'' In addition, the FAA has revised paragraph (h) of this AD in order to more accurately define a ''shop visit''. Lastly, the FAA has added paragraph (g) in the AD to clarify what constitutes terminating action to the inspections required by the AD.

The FAA has also revised the calendar end-date in paragraphs (a)(2) and (b)(2) of this AD to January 31, 1998, based upon the anticipated effective date of this AD.

All changes introduced in this revised AD are relaxatory in nature except for the new inspection interval in paragraph (d). The manufacturer has advised the FAA that there is only one engine, not installed on a U.S. registered aircraft, that is affected by this new inspection interval. Therefore, no additional cost to U.S. operators is expected to result from this relaxatory action. In addition, since no U.S. operators will be affected by the new inspection interval a situation exists that allows the immediate adoption of this regulation. Therefore, it is found that good cause exists for making this amendment effective in less than 30 days following publication.

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 removing Amendment 39–6370 (54 FR 43581, October 26, 1989) and by adding a new airworthiness directive, Amendment 39–10290, to read as follows:

89–23–06 R1 CFM International: Amendment 39–10290. Docket 89–ANE–05. Revises AD 89–23–06, Amendment 39–6370.

Applicability: CFM International (CFMI) CFM56–2, –3, –3B, –3C, and –5 series turbofan engines, installed on but not limited

to Airbus A319 and A320 series, McDonnell Douglas DC–8 series, and Boeing 737 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) 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 a No. 3 bearing failure and subsequent inflight engine shutdown, accomplish the following:

(a) For CFM56–3, –3B, and –3C series engines equipped with No. 3 bearings, Part Number (P/N) 9732M10P12 (Serial Number (S/N) series FAFDxxxx or FAFExxxx); 9732M10P18; or 1362M76P02 accomplish the following:

(1) Inspect the forward sump magnetic chip detector (MCD) in accordance with CFM56–3/–3B/–3C Service Bulletin (SB) No. 72–530, Revision 3, dated November 17, 1995, within the next 50 hours time in service (TIS) after the effective date of this AD. Thereafter, inspect the forward sump MCD at intervals not to exceed 50 hours TIS since the last inspection (SLI) in accordance with CFM56–3/–3B/–3C SB No. 72–530, Revision 3, dated November 17, 1995, until accomplishment of paragraph (a)(2) below, or, for bearing P/N 9732M10P12, until the TIS since new is 6,000 hours or more. Remove from service, prior to further flight, engines which exhibit MCD metallic debris defined as not serviceable in accordance with CFM56–3/–3B/–3C SB No. 72–530, Revision 3, dated November 17, 1995.

(2) Remove from service No. 3 bearings, P/N 9732M10P18 and 1362M76P02, at the next shop visit, or before January 31, 1998, whichever occurs first. Removal of No. 3 bearings in accordance with this paragraph constitutes terminating action to the inspection requirements of paragraph (a)(1) of this AD.

(b) For CFM56–2 series engines equipped with No. 3 bearings, P/N 9732M10P12 (S/N series FAFDxxxx or FAFExxxx) or 9732M10P18, accomplish the following:

(1) Inspect the forward sump MCD in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995, within the next 50 hours TIS after the effective date of this AD. Thereafter, inspect the forward sump MCD at intervals not to exceed 50 hours TIS SLI in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995, until accomplishment of paragraph (b)(2) below, or, for bearing P/N 9732M10P12, until the TIS since new is 6,000 hours or more. Remove from service, prior to further flight, engines which exhibit MCD metallic debris defined as not serviceable in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995.

(2) Remove from service No. 3 bearings, P/N 9732M10P18, at the next engine shop visit, or before January 31, 1998, whichever occurs first. Removal of No. 3 bearings in accordance with this paragraph constitutes terminating action to the inspection requirements of paragraph (b)(1) of this AD.

(c) For CFM56–3, –3B, and –3C series engines equipped with No. 3 bearings, P/N 9732M10P10; 9732M10P17; or 9732M10P12 (S/N series other than FAFDxxxx or FAFExxxx), inspect the forward sump MCD in accordance with CFM56–3/–3B/–3C SB No. 72–530, Revision 3, dated November 17, 1995, within the next 75 hours TIS after the effective date of this AD. Thereafter, inspect the forward sump MCD at intervals not to exceed 75 hours TIS SLI in accordance with CFM56–3/–3B/–3C SB No. 72–530, Revision 3, dated November 17, 1995, until the bearing TIS since new is 6,000 hours or more. Remove from service, prior to further flight, engines which exhibit MCD metallic debris defined as not serviceable in accordance with CFM56–3/–3B/–3C SB No. 72–530, Revision 3, dated November 17, 1995.

(d) For CFM56–2 series engines equipped with No. 3 bearings, P/N 9732M10P10; 9732M10P17; or 9732M10P12 (S/N series other than FAFDxxxx or FAFExxxx), inspect the forward sump MCD in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995, within the next 75 hours TIS after the effective date of this AD. Thereafter, inspect the forward sump MCD at intervals not to exceed 75 hours TIS SLI in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995, until the bearing TIS since new is 6,000 hours or more. Remove from service, prior to further flight, engines which exhibit MCD metallic debris defined as not serviceable in accordance with CFM56–2 SB No. 72–620, Revision 4, dated November 17, 1995.

(e) For CFM56–5 series engines equipped with No. 3 bearing, P/N 9542M60P01, inspect the forward sump MCD in accordance with the Accomplishment Instructions of CFM56–5 Alert Service Bulletin (ASB) No. 72–A118, Revision 1, dated August 1, 1997, within the next 50 hours TIS after the effective date of this AD. Thereafter, inspect the forward sump MCD at intervals not to exceed 50 hours TIS SLI in accordance with the Accomplishment Instructions of CFM56–5 ASB No. 72–A118, Revision 1, dated August 1, 1997. Remove from service, prior to further flight, engines which exhibit MCD metallic debris defined as not serviceable in accordance with CFM56–5 ASB No. 72–A118, Revision 1, dated August 1, 1997.

(f) Bearing inspections accomplished in accordance with AD 89–17–04 or AD 89–23–06 satisfy the corresponding requirements of this AD.

(g) No. 3 bearing, P/N 9732M10P12 (S/N series FAFDxxxx or FAFExxxx), identified in paragraphs (a) or (b); or No. 3 bearing, P/N 9732M10P10, 9732M10P17, or 9732M10P12 (S/N series other than FAFDxxxx or FAFExxxx), identified in paragraphs (c) or (d); with a TIS since new of 6,000 hours or more constitutes terminating action to the applicable inspection requirements of paragraphs (a)(1), (b)(1), (c), or (d) of this AD.

(h) For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for maintenance resulting in exposure of the inlet gearbox.

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

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

(j) 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 aircraft to a location where the requirements of this AD can be accomplished.

(k) The actions required by this AD shall be done in accordance with the following CFMI SBs:

Document No.	Pages	Revision	Date
(CFM56–2) SB 72–620	1–3	4	November 17, 1995.
	4–9	3	November 22, 1993.
	10	4	November 17, 1995.
Total pages	10		
(CFM56–3/3B/3C) SB 72–530	1–3	3	November 17, 1995.
	4–11	2	November 22, 1993.
	12	3	November 17, 1995.
Total pages	12		
(CFM56–5) SB 72–A118	1–7	1	August 1, 1997.

Document No.	Pages	Revision	Date
Total pages	7		

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 CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on January 28, 1998.

Issued in Burlington, Massachusetts, on January 15, 1998.

James C. Jones,

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

[FR Doc. 98–1704 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–35–AD; Amendment 39–10289; AD 98–02–07]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. Model HC–E4A–3(A,I) Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Hartzell Propeller Inc. Model HC–E4A–3(A,I) propellers. This action requires replacing propeller blade counterweight clamp bolts with improved bolts. This amendment is prompted by reports of a manufacturing defect in the counterweight clamp bolts that resulted in the blade counterweight separating and causing damage to the propeller. The actions specified in this AD are intended to prevent counterweight clamp bolt failure, which can result in propeller blade counterweight separation and damage to the propeller and aircraft.

DATES: Effective February 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 12, 1998.

Comments for inclusion in the Rules Docket must be received on or before March 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–ANE–35–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (937) 778–4200, fax (937) 778–4321. This information may be examined at the FAA, New England Region, Office of the Regional Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7031, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received a report that a Hartzell Propeller Inc. Model HC–E4A–3(A,I) propeller blade counterweight clamp bolt broke, the propeller blade counterweight separated in flight and damaged the adjacent propeller blade (about 12 inches from the hub). The investigation revealed that the propeller blade counterweight clamp bolt failure was caused by a manufacturing defect known as liquid metal embrittlement. The manufacturer has informed the FAA that all propellers operated on aircraft of U.S. registry have accomplished the required actions, and, therefore, are no longer affected by this unsafe condition. This AD, then, is necessary to require accomplishment of the required actions for propellers installed on aircraft currently of foreign registry that may some day be imported into the U.S. Accordingly, the FAA has determined that notice and prior opportunity for comment are unnecessary and good cause exists for making this amendment effective in less than 30 days. This condition, if not corrected, could result in counterweight clamp bolt failure, which can result in propeller blade counterweight separation and damage to the propeller and aircraft.

The FAA has reviewed and approved the technical contents of Hartzell Propeller Inc. Service Bulletin (ASB) No. HC–ASB–61–219, Revision 1, dated July 2, 1996, that describes procedures for replacing propeller blade counterweight clamp bolts with improved bolts.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of the same type design, this AD is being issued to prevent counterweight clamp bolt failure. This AD requires replacing propeller blade counterweight clamp bolts with improved bolts. The actions are required to be accomplished in accordance with the SB described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–ANE–35–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–02–07 Hartzell Propeller Inc.: Amendment 39–10289. Docket 97–ANE–35–AD.

Applicability: Hartzell Propeller Inc. Model HC–E4A–3(A,I) propellers with serial numbers HJ1 to HJ654, installed on but not limited to Raytheon Beech 1900D series aircraft.

Note 1: This airworthiness directive (AD) applies to each propeller 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 propellers 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 counterweight clamp bolt failure, which can result in propeller blade counterweight separation and damage to the propeller and aircraft, accomplish the following:

(a) Within 45 days or 400 hours time in service (TIS) after the effective date of the AD, whichever occurs first, identify and replace defective propeller blade counterweight clamp bolts with improved bolts in accordance with Hartzell Propeller Inc. Service Bulletin (ASB) No. HCA–SB–61–219, Revision 1, dated July 2, 1996.

(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, Chicago Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be done in accordance with the following Hartzell Propeller Inc. ASB:

Document No.	Pages	Revision	Date
HC–ASB–61–219.	1–8	1	July 2, 1996.
Total pages:	8.		

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 Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356–2634, ATTN: Product Support; telephone (937) 778–4200, fax (937) 778–4321. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 12, 1998.

Issued in Burlington, Massachusetts, on January 9, 1998.

James C. Jones,

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

[FR Doc. 98–1742 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–189–AD; Amendment 39–10293; AD 98–03–01]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere Falcon 200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Dassault Model Mystere Falcon 200 series airplanes, that requires reducing the life limit of the polyurethane foam used in the fuselage fuel tanks. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to ensure replacement of the polyurethane foam in the fuselage fuel tanks when it has reached its maximum life limit; polyurethane foam that is not replaced in a timely manner could result in fuel contamination or

increased risk of explosion in the fuselage fuel tank.

EFFECTIVE DATE: March 4, 1998.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Dassault Model Mystere Falcon 200 series airplanes was published in the **Federal Register** on November 26, 1997 (62 FR 63041). That action proposed to require reducing the life limit of the polyurethane foam used in the fuselage fuel tanks.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 20 Model Mystere Falcon 200 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $4,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $89,600, or $4,480 per airplane.

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

Regulatory Impact

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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–03–01 Dassault Aviation: Amendment 39–10293 Docket 97–NM–189–AD.

Applicability: All Model Mystere Falcon 200 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 fuel contamination or increased risk of explosion in the fuselage fuel tank as a result of degradation of the polyurethane foam used in the fuselage fuel tanks, accomplish the following:

(a) Replace the polyurethane foam in the fuselage fuel tanks with new foam, in accordance with procedures specified in Chapter 5 of the Dassault Falcon 200 Maintenance Manual, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD. Thereafter, replace the foam with new foam at intervals not to exceed 8 years.

(1) Within 8 years after the last replacement of the foam; or

(2) Within 7 months or 350 flight hours after the effective date of this AD, whichever occurs first.

(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, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(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.

Note 3: The subject of this AD is addressed in French airworthiness directive (CN) 96–078–021(B), dated April 10, 1996.

(d) This amendment becomes effective on March 4, 1998.

Issued in Renton, Washington, on January 21, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1971 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-AWA–1]

RIN 2120–AA66

Modification of the Houston Class B Airspace Area; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Houston, TX, Class B airspace area. Specifically, this action reconfigures two existing subarea boundaries and establishes an additional subarea within the Houston Class B airspace area. The FAA is taking this action to enhance safety, reduce the potential for midair collision, and to improve management of air traffic operations into, out of, and through the Houston Class B airspace area while accommodating the concerns of airspace users. Additionally, the graphic that accompanied the notice proposing this action inadvertently depicted several incorrect mileage points. This action corrects those errors.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Sheri A. Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591: telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65655). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in this final rule.

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increases the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Class B airspace areas. To date, the FAA has established a total of 29 Class B airspace areas.

The standard configuration of a Class B airspace area contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limit of a Class B airspace area normally should not exceed 10,000 feet mean sea level (MSL), with the floor established at the surface in the inner area and at levels appropriate for the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates in this docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997 which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

Related Rulemaking Actions

On June 21, 1988, the FAA published the Transponder with Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated Class B airspace primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine driven electrical system, (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area (TCA) Classification and TCA Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

Public Input

In June 1992, an ad hoc committee was formed, representing airspace users, to analyze the Houston Class B airspace area and develop recommendations for modifying the existing airspace design. The ad hoc committee met on several occasions and submitted written recommendations for modifying the Houston Class B airspace area.

As announced in the **Federal Register** on January 28, 1994 (59 FR 4134), a pre-NPRM informal airspace meeting was held on April 19, 1994, in Pasadena, TX, to provide local airspace users an opportunity to present input on the design of the planned modifications of the Houston Class B airspace area.

On October 30, 1997, the FAA published an NPRM (62 FR 58694) that proposed to modify the Houston, TX, Class B airspace area. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal to the FAA. In response to this NPRM, the FAA received one comment from the Chapter 712 Experimental Aircraft Association. This comment supported the proposal.

The Rule

This amendment to 14 CFR part 71 (part 71) modifies the Houston Class B airspace area. Specifically, this action reconfigures subarea A, expands subarea D, and establishes an additional subarea E southwest of the William P. Hobby Airport within the existing Houston Class B airspace area. The FAA is taking this action to enhance safety, reduce the potential for midair collision, and to improve management of air traffic operations into, out of, and through the Houston Class B airspace area while accommodating the concerns of airspace users.

This action realigns a portion of the eastern boundary of subarea D where it intersects I–10 in the vicinity of Bayton Airport and R.W.J. Airpark, by extending the boundary along the Humble VORTAC 30 NM arc until it intercepts the 20 NM arc of the Hobby VOR/DME. The 4,000 feet MSL floor of subarea D allows nonparticipating aircraft ingress and egress out of the Bayton Airport and R.W.J. Airpark.

Additionally, this action reconfigures a portion of subarea A around William P. Hobby Airport by reconfiguring its eastern boundary. This modification provides aircraft operators utilizing Ellington Airport approximately 1 ½-miles of additional airspace for aircraft operations west of Ellington Airport.

This action also creates a new subarea E in the vicinity of Southwest Airport with a floor of 2,500 feet MSL. This modification provides additional airspace for nonparticipating aircraft operating below the floor of the Houston Class B airspace area.

The graphic included in the NPRM inadvertently depicted several incorrect mileage points. The 15 and 20-mile arcs were depicted with incorrect mileage, and the 8-mile arc surrounding the George Bush Intercontinental Airport did not depict mileage. Except for mileage corrections made to the graphic, this amendment is the same as that proposed in the notice.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this final rule: (1) Will generate benefits that justify its costs and is not ''a significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will not constitute a barrier to international trade; and (5) will not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply. These analyses are summarized here in the preamble and in the full Regulatory Evaluation in the docket.

The regulatory evaluation analyzes the potential costs and benefits of the final rule to amend part 71. This final rule reconfigures several subareas and establishes a subarea within the Houston, TX, Class B airspace area. Specifically, this final rule reconfigures subarea A, expands subarea D, and establishes a subarea E with a floor of 2,500 feet MSL.

The FAA has determined that this rule will generate benefits for system users and the agency by enhancing aviation safety and operational efficiency. Operational efficiency will increase through the enhanced capability of Houston Air Traffic Control Tower (ATCT) to provide sequencing and separation of arrivals and departures for IFR and VFR operations in areas of higher complexity by releasing airspace in that portion of subarea A where there is less traffic.

The FAA has determined that aircraft operators will not incur any additional navigational or equipment costs as a result of this rule. The modification of subarea D slightly expands the overall size of the Class B airspace area, and will not impose any additional avionics equipment or circumnavigation cost onto operators. The reconfiguration of subarea A will move the lateral boundary inward (west), subsequently reducing the overall size of the subarea. The FAA contends that the reduction of the subarea lateral boundary may reduce circumnavigation cost for GA operations.

The final rule will not impose any additional administrative costs onto the FAA for personnel, facilities, or equipment. This action provides additional ATC participation in subarea D with higher operations complexity, but will not expand the Class B airspace area lateral boundaries beyond the 30 NM arc.

In view of the potential benefits of enhanced aviation safety and increased operational efficiency and the negligible cost of compliance, the FAA has determined that this rule will be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires regulatory agencies to review rules which may have ''a significant economic impact on a substantial number of small entities.''

The FAA certifies that the final rule will not have an adverse effect on a substantial number of small entities. This assessment is based on the premise that potentially impacted operators regularly fly into airports where radar approach control services have already been established. In addition, increasing the overall size of the Class B airspace area by such a small area will not impose any additional cost on circumnavigating operators for time and fuel. The FAA contends that the final rule will not result in a significant economic impact on a substantial number of small entities, in view of the negligible cost of compliance. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

International Trade Impact Assessment

The final rule will not constitute a barrier to international trade to either the export of American goods and services to foreign countries, or to the import of foreign goods and services into the United States. This modification will not impose costs on aircraft operators or aircraft manufacturers in the U.S. or foreign countries. The modifications of the Houston Class B airspace area will only affect U.S. terminal airspace operating procedures in the vicinity of Houston. The modification will not have international trade ramifications because it is a domestic airspace matter that will not impose additional costs or requirements on affected entities.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more adjusted annually for inflation in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local and tribal governments, in the aggregate, of $100 million, adjusted annually for inflation, in any one year. Section 203 of the Act, 203 U.S.C 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace

* * * * *

ASW TX B Houston, TX [Revised]

George Bush Intercontinental Airport (IAH) (Primary Airport)
(lat. 29°58′50″ N., long. 95°20′23″ W.)
William P. Hobby Airport (Secondary Airport)
(lat. 29°38′44″ N., long. 95°16′44″ W.)
Ellington Field (lat. 29°38′27″ N., long. 95°09′32″ W.)
Humble VORTAC (IAH) (lat. 29°57′25″ N., long. 95°20′45″ W.)
Hobby VOR/DME (HUB) (lat. 29°39′01″ N., long. 95°16′45″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL bounded by a line beginning at the intersection of the Humble VORTAC 8-mile arc and the 090° radial; thence clockwise along the Humble VORTAC 8-mile arc to the Humble VORTAC 069° radial; thence east along the Humble VORTAC 069° radial to the 10-mile arc of Humble VORTAC; thence clockwise along the 10-mile arc to the Humble VORTAC 090° radial; thence west to the point of beginning; and that airspace bounded by a line beginning at lat. 29°45′37″ N., long. 95°21′58″ W.; to lat. 29°45′46″ N., long. 95°11′47″ W.; thence clockwise along the Hobby VOR/DME 8-mile DME arc **to intercept the** Hobby VOR/DME **056° radial; thence southwest along the Hobby VOR/DME 056° radial to the 5.1 NM fix, thence direct to the Hobby VOR/DME 131°/005.8 NM fix; thence southeast along the Hobby VOR/DME 131° radial to intercept the Hobby VOR/DME 7 NM arc; thence** clockwise on the 7 NM arc to the Hobby VOR/DME 156° radial; thence north along the Hobby VOR/DME 156° radial to the Hobby VOR/DME 6-mile fix; thence clockwise along the Hobby VOR/DME 6 NM arc to the Hobby VOR/DME 211° radial; thence south along the Hobby VOR/DME 211° radial to the Hobby VOR/DME 8-mile arc clockwise to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of State Highway 59 (SH 59) and the Hobby VOR/DME 15-mile arc; **thence counterclockwise along the Hobby VOR/DME 15-mile arc to the intersection of the Hobby VOR/DME 15-mile arc and State Road 6 (SR 6); thence southeast along SR 6 to the intersection of SR 6 and Farm Road 521 (FR 521); thence south along FR 521 to the intersection of FR 521 and the Hobby VOR/DME 15-mile arc; thence counterclockwise along the Hobby VOR/DME 15-mile arc to the Hobby VOR/DME 211° radial; thence northeast along the Hobby VOR/DME 211° radial to the Hobby VOR/DME 10-mile arc; thence east along the Hobby VOR/DME 10-mile arc to the Hobby VOR/DME 156° radial; thence southeast along the Hobby VOR/DME 156°radial to the Hobby VOR/DME 15-mile arc; thence counterclockwise on the Hobby VOR/DME 15-mile arc to the intersection of the Hobby VOR/DME 15-mile arc and the Humble VORTAC 15-mile arc; thence counterclockwise along the Humble VORTAC 15-mile arc to the intersection of the Hobby VOR/DME 15-mile arc and Westheimer Road lat. 29°44′07″ N., long. 95°28′47″ W.; thence southwest to and along SH 59 to the point of beginning, excluding Area A.**

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 20-mile DME arc; thence clockwise along the Humble VORTAC 20-mile DME arc to the intersection of the Humble VORTAC 20-mile DME arc and Interstate 10 (I–10), west on I–10 to the Hobby VOR/DME 15-mile arc; thence counterclockwise along the Hobby VOR/DME 15-mile arc to the Humble VORTAC 15-mile DME arc; thence counterclockwise along the Humble VORTAC 15-mile DME arc to the intersection of the Humble VORTAC 15 NM DME arc and Westheimer Road; thence southwest to and along SH 59 to the point of beginning; and that airspace beginning at the intersection of the Hobby VOR/DME 15-mile arc and 156° radial; thence north along the Hobby VOR/DME 156° radial to the Hobby VOR/DME 10-mile arc clockwise along the Hobby VOR/DME 10-mile arc to the Hobby VOR/DME 211° radial; thence south along the Hobby VOR/DME 211° radial to intersect the 15-mile arc to the point of beginning.

Area D. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of SH 59 and the Humble VORTAC 30-mile DME arc; thence clockwise along the Humble VORTAC 30-mile DME arc to **the intersection of the Humble VORTAC 30 NM arc and the Hobby VOR/DME 20 NM arc;** thence clockwise along the Hobby VOR/DME 20-mile arc to SH 59; thence southwest on SH 59 to the point of beginning, excluding Areas B, C, and E.

Area E. **That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the intersection of the Hobby VOR/DME 15 NM arc and State Road 6 (SR 6); thence southeast along SR 6 to the intersection of SR 6 and Farm Road 521 (FR 521); thence south along FR 521 to the intersection of FR 521 and the Hobby VOR/DME 15 NM arc; thence counterclockwise along the Hobby VOR/DME 15 NM arc to the point of the beginning.**

* * * * *

Issued in Washington, DC, on January 14, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

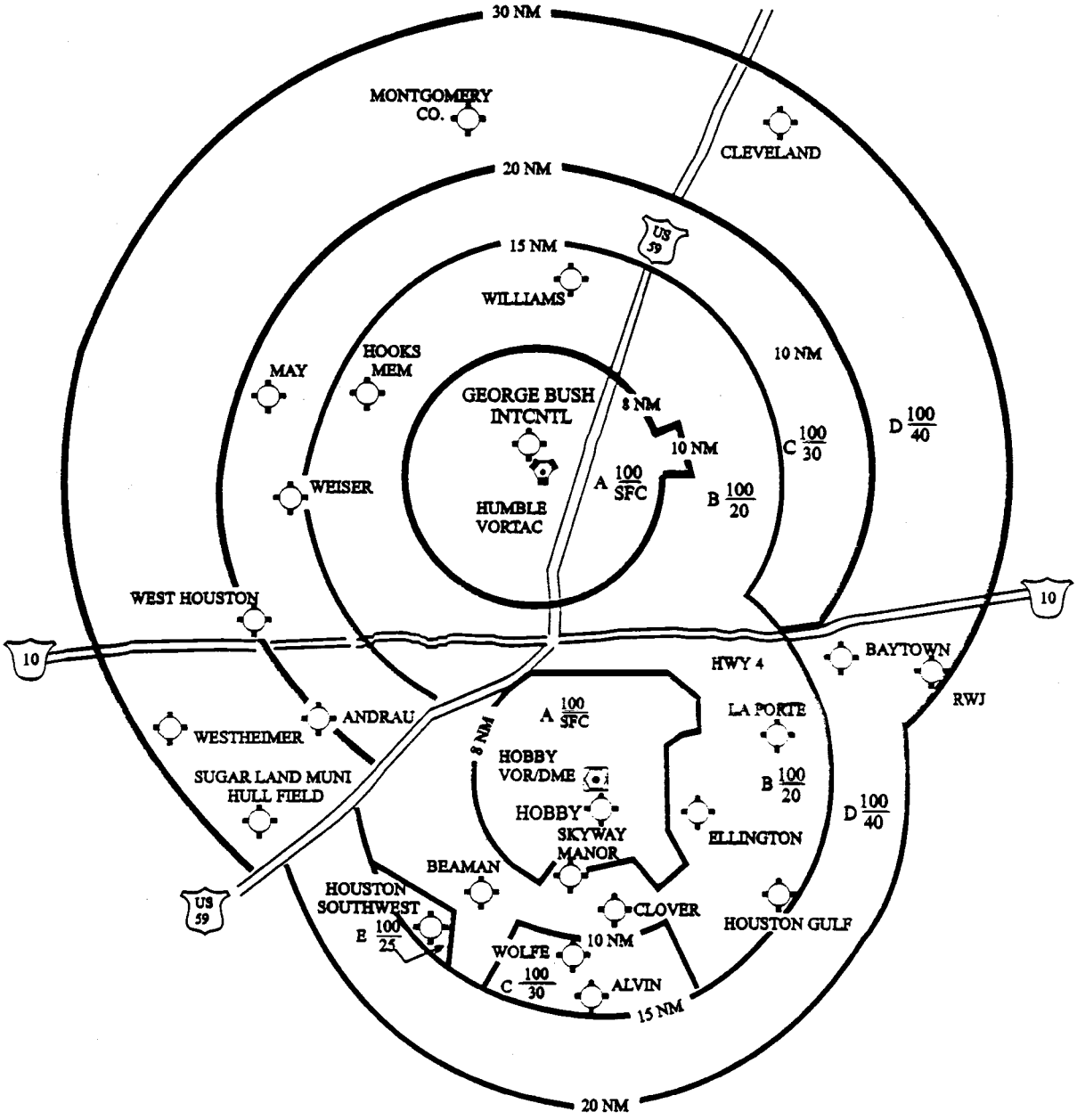
Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix—Houston, TX, Class B Airspace Area.

BILLING CODE 4910–13–P

HOUSTON, TEXAS
CLASS B AIRSPACE AREA

(Not to be used for navigation)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Air Traffic Publications
ATA-10

[FR Doc. 98–1624 Filed 1–27–98; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, and 114

[T.D. 98—10]

RIN 1515–AC03

Bilateral Carnet Agreement Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations which apply to carnets to reflect a bilateral agreement between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT). This agreement established a TECRO/AIT Carnet for the temporary admission of goods, commercial samples and professional equipment.

EFFECTIVE DATE: February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon Goodson or Dennis Sequeira, International Organizations and Agreements Division, U.S. Customs, 202–927–0971.

SUPPLEMENTARY INFORMATION:

Background

A carnet is an international customs document, backed by an internationally valid guarantee, which may be used for the entry of articles under various customs procedures such as temporary importation and transportation in bond. The carnet is used in place of the usual national customs documentation and guarantees the payment of duties (including taxes and associated penalties) which may become due if the carnet requirements are not satisfied. The existence of a single document rather than numerous national documents facilitates international commerce.

The carnet guarantee is based on chains of national guaranteeing associations established in the countries accepting the carnets. The guaranteeing association is jointly and severally liable with the carnet holder for payment of the sums due in the event of noncompliance with the conditions or the procedures for which the carnet is used.

Benefits of the TECRO/AIT Carnet

In recent years, trade between the United States and Taiwan has increased. It is expected that this trend will continue, and that such trade can be facilitated through the use of carnets. However, Taiwan is currently ineligible to accede to the A.T.A. (Admission Temporaire—Temporary Admission) Carnet Convention, under which carnets facilitate trade among more than fifty contracting parties. Thus, Taiwan has sought access to the carnet facility through the recently concluded bilateral agreement between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT). This agreement established a TECRO/AIT Carnet for the temporary admission of goods, commercial samples and professional equipment. This agreement was negotiated pursuant to the authority contained in 22 U.S.C. 3305.

On November 4, 1996, Customs published a Notice of Proposed Rulemaking in the **Federal Register** (61 FR 56645) which proposed amending the Customs Regulations to reflect the TECRO/AIT Carnet and solicited comments on the proposal. No comments were received in response to the publication. After further consideration, Customs has determined to proceed to amend the regulations as proposed.

A Notice informing the public of the decision of the Commissioner of Customs regarding the selection of an issuing and guaranteeing association for the TECRO/AIT carnet will be made in a separate publication in the **Federal Register**.

Regulatory Flexibility Act

Insofar as the amendment is intended to facilitate international trade and remove some existing impediments to the conduct of business, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

The amendment does not meet the criteria for a ''significant regulatory action'' under E.O. 12866.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Reporting and recordkeeping requirements.

19 CFR Part 18

Common carriers, Customs duties and inspection, Exports, Surety bonds.

19 CFR Part 114

Customs duties and inspection, Exports, Trade agreements.

Amendments to the Regulations

Parts 10, 18 and 114 of the Customs Regulations (19 CFR parts 10, 18 and 114) are amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

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

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

§ 10.31 [Amended]

2. Section 10.31 is amended by adding in paragraphs (a)(1) and (a)(2) the phrase ''or a TECRO/AIT carnet'' immediately after the words ''A.T.A. carnet''.

§ 10.39 [Amended]

3. Section 10.39(d)(2) is amended by adding the words ''or Agreement'' immediately after the phrase ''in the Convention''.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority citation for part 18 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1624.

* * * * *

§ 18.1 [Amended]

2. Section 18.1(a)(3) is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.'' each time it appears.

§ 18.8 [Amended]

3. Section 18.8(e)(3) is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.'' each time it appears.

PART 114—CARNETS

1. The authority citation for part 114 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624.

2. In § 114.1, paragraphs (b) and (c) are amended by adding the phrase ''or bilateral Agreement'' immediately after the words ''Customs Convention'' each time they appear, and a new paragraph (g) is added to read as follows:

§ 114.1 Definitions.

* * * * *

(g) *TECRO/AIT Carnet.* ''TECRO/AIT carnet'' means the document issued pursuant to the Bilateral Agreement between the Taipei Economic and Cultural Representative Office (TECRO) and the American Institute in Taiwan (AIT) to cover the temporary admission of goods.

3. Section 114.2 is amended by revising the section heading and the introductory text and by adding a new paragraph (d) to read as follows:

§ 114.2 Customs Conventions and Agreements.

The regulations in this part relate to carnets provided for in the following Customs Conventions and Agreements:

* * * * *

(d) Agreement Between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan on TECRO/AIT Carnet for the Temporary Admission of Goods (hereinafter referred to as the Agreement).

§ 114.3 [Amended]

4. In § 114.3, the introductory text in paragraph (a) and paragraph (a)(2) are amended by adding the words ''or Agreement'' immediately after the word ''Convention'' each time it appears.

§ 114.11 [Amended]

5. Section 114.11 is amended by adding the words ''or Agreement'' immediately after the word ''Convention'' each time it appears.

6. Section 114.22 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 114.22 Coverage of carnets.

* * * * *

(d) *TECRO/AIT carnet.*—(1) *Use.* The TECRO/AIT carnet is acceptable for the following two categories of goods to be temporarily imported, unless importation is prohibited under the laws and regulations of the United States:

(i) Professional equipment; and

(ii) Commercial samples and advertising material imported for the purpose of being shown or demonstrated with a view to soliciting orders.

(2) *Issue and use.* (i) Issuing associations shall indicate on the cover of the TECRO/AIT carnet the customs territory in which it is valid and the name and address of the guaranteeing association.

(ii) The period fixed for re-exportation of goods imported under cover of a TECRO/AIT carnet shall not in any case exceed the period of validity of that carnet.

* * * * *

7. Section 114.23 is amended by adding a new paragraph (c) to read as follows:

§ 114.23 Maximum period.

* * * * *

(c) *TECRO/AIT carnet.* A TECRO/AIT carnet shall not be issued with a period of validity exceeding one year from the date of issue. This period of validity cannot be extended and must be shown on the front cover of the carnet.

§ 114.24 [Amended]

8. Section 114.24 is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.''.

§ 114.25 [Amended]

9. Section 114.25 is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.''.

§ 114.26 [Amended]

10. In § 114.26, paragraphs (a) and (b) are amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.'' each time it appears.

§ 114.31 [Amended]

11. Section 114.31(b) is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.''.

§ 114.32 [Amended]

12. Section 114.32 is amended by adding the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.'' the first time it appears and by adding the phrase ''or TECRO/AIT Agreement'' immediately after the phrase ''A.T.A. Convention''.

§ 114.33 [Amended]

13. Section 114.33 is amended by adding the words ''or Agreement'' immediately after the word ''Convention''.

§ 114.34 [Amended]

14. Section 114.34 is amended by adding, in the heading and text of paragraph (b), the phrase ''or TECRO/AIT'' immediately after the abbreviation ''A.T.A.'' each time it appears.

George J. Weise,

Commissioner of Customs.

Approved: August 22, 1997.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–1950 Filed 1–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8762]

RIN 1545–AB43

Installment Obligations Received From Liquidating Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the use of the installment method to report the gain recognized by a shareholder who receives, in exchange for the shareholder's stock, certain installment obligations that are distributed upon the complete liquidation of a corporation. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980 and the Tax Reform Act of 1986. These regulations affect taxpayers who receive installment obligations in exchange for their stock upon the complete liquidation of a corporation.

DATES: This regulation is effective January 28, 1998.

For dates of applicability, see § 1.453–11(e) of these regulations.

FOR FURTHER INFORMATION CONTACT: George F. Wright, (202) 662–4950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 453(h), relating to the tax treatment of installment obligations received by a shareholder from a liquidating corporation, was added to the Internal Revenue Code of 1954 by the Installment Sales Revision Act of 1980, Pub. L. 96–471, 94 Stat. 2247, 2250. Proposed regulations under section 453(h) were published in the **Federal Register** for January 13, 1984 (49 FR 1742). Subsequently, section

453(h) was amended as part of the Tax Reform Act of 1986, Pub. L. 99–514, 100 Stat. 2085, 2274, pursuant to which both C and S corporations became subject to tax upon making liquidating distributions of installment obligations to shareholders. The Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, 102 Stat. 3342, 3403, added section 453B(h), which provides that no gain or loss is recognized by S corporations with respect to certain liquidating distributions of installment obligations. The regulations proposed on January 13, 1984 (49 FR 1742), were withdrawn by the notice of proposed rulemaking published on January 22, 1997 (62 FR 3244), except for paragraph (e) relating to liquidating distributions received in more than one taxable year, and paragraph (g) containing the effective date provision. The notice of proposed rulemaking published in the **Federal Register** for January 22, 1997, reserved paragraph (d) for liquidating distributions received in more than one taxable year. Written comments responding to this notice were received. No public hearing was held because no hearing was requested. After consideration of all comments received, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

A. Overview of Provisions

Prior to the Installment Sales Revision Act of 1980, a shareholder recognized gain or loss on receipt of an installment obligation that was distributed by a liquidating corporation in exchange for the shareholder's stock. Gain could not be reported under the installment sale provisions of section 453 as payments were received on the obligation distributed by the corporation in the liquidation.

As enacted by the Installment Sales Revision Act of 1980 and amended by the Tax Reform Act of 1986, section 453(h) provides a different treatment for certain installment obligations that are distributed in a complete liquidation to which section 331 applies. Under section 453(h), a shareholder that does not elect out of the installment method treats the payments under the obligation, rather than the obligation itself, as consideration received in exchange for the stock. The shareholder then takes into account the income from the payments under the obligation using the installment method. In this manner, the shareholder generally is treated as if the shareholder sold the shareholder's stock to an unrelated purchaser on the installment method.

This treatment under section 453(h) applies generally to installment obligations received by a shareholder (in exchange for the shareholder's stock) in a complete liquidation to which section 331 applies if (a) the installment obligations are qualifying installment obligations, i.e., the installment obligations are acquired in respect of a sale or exchange of property by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted, and (b) the liquidation is completed within that 12-month period. However, an installment obligation acquired in a sale or exchange of inventory, stock in trade, or property held for sale in the ordinary course of business qualifies for this treatment only if the obligation arises from a single bulk sale of substantially all of such property attributable to a trade or business of the corporation. If an installment obligation arises from both a sale or exchange of inventory, etc., that does not comply with the requirements of the preceding sentence and a sale or exchange of other assets, the portion of the installment obligation that is attributable to the sale or exchange of other assets is a qualifying installment obligation.

B. Discussion of Comments

Interaction of Section 453(h) and Limitations on the Installment Method

The regulations provide that, if the stock of a liquidating corporation is traded on an established securities market, an installment obligation received by a shareholder from that corporation as a liquidating distribution is not a qualifying installment obligation and does not qualify for installment reporting, regardless of whether the requirements of section 453(h) are otherwise satisfied. However, if an installment obligation is received by a shareholder from a liquidating corporation whose stock is not publicly traded, and the obligation arose from a sale by the corporation of stock or securities that are traded on an established market, then the obligation generally is a qualifying installment obligation in the hands of the transferor. An exception to the above rule applies if the liquidating corporation is formed or availed of for a principal purpose of avoiding limitations on the availability of installment sales treatment, such as section 453(k), through the use of a related party.

One commentator suggested that the anti-abuse rule directed at cases in which there is a principal purpose to avoid section 453(k) is not necessary. The commentator suggests that the effect of a contribution of publicly-traded stock to a nonpublicly-traded corporation, followed by the sale of the publicly-traded stock for an installment obligation and the liquidation of the nonpublicly-traded corporation, is the creation of two levels of tax because the liquidating corporation must recognize gain on the distribution of the installment obligation. Accordingly, the commentator does not believe that the transaction offers any tax avoidance opportunities that warrant a specific anti-abuse rule.

The anti-abuse rule is directed at circumvention of the prohibition in section 453(k) against the use of the installment method for a sale of publicly-traded securities. It is designed to prevent a shareholder from indirectly entering into such a sale on the installment method when the shareholder could not have done so through a direct sale. Accordingly, the anti-abuse rule has been retained.

Liquidating Distributions Received in More Than One Year

Under § 1.453–2(e) proposed on January 13, 1984, if liquidating distributions, including qualifying installment obligations, are received in more than one taxable year, a shareholder must file an amended return if the reallocation of basis required under section 453(h)(2) affects the computation of gain recognized in an earlier year. If the shareholder has transferred the installment obligation to a person whose basis in the obligation is determined by reference to the shareholder's basis, then the transferee generally is required to reallocate basis and, if necessary, file an amended return. The proposed effective date applied to distributions of qualifying installment obligations made after March 31, 1980.

In the preamble to the 1997 proposed regulations, the IRS and Treasury Department suggested that an alternative to the amended return requirement would be to require the shareholder to recognize in the current year the additional amount of gain that would have been recognized in the earlier year had the total amount of the liquidating distributions been known in the earlier year. Comments were requested regarding these and any other methods of accomplishing the basis reallocation. Proposed § 1.453–11(d) relating to liquidating distributions received in more than one taxable year was reserved.

One commentator questioned whether amended returns were necessary and noted that the alternative method

discussed in the preamble is simpler and less burdensome for taxpayers. The commentator then suggested an ordering rule as another method of achieving the intended purpose. Under the proposed ordering rule, basis first would be allocated to assets other than installment obligations distributed in the liquidation with the remainder allocated to the installment obligations. The commentator acknowledged that it might not be appropriate to implement this approach by regulation without amending the statute.

The proposed ordering rule does not satisfy the basis reallocation requirement of section 453(h)(2) and would require complex provisions to implement it. Accordingly, the suggested approach is not adopted in the final regulations.

The purpose underlying section 453(h)(2) is to ensure that gain is recognized in the appropriate year when liquidating distributions are received in more than one taxable year. The IRS and Treasury Department believe that this purpose can be substantially fulfilled without imposing the burden of filing amended returns. Accordingly, the final regulations incorporate a current-year recognition rule. Under the current-year recognition rule, a shareholder is required to recognize in the current year the additional amount of gain that would have been recognized in the earlier year had the total amount of the liquidating distributions been known in the earlier year. In allocating basis to calculate the gain to be reported in the first year in which a liquidating distribution is received, a shareholder is required to reasonably estimate the anticipated aggregate distributions. For this purpose, the shareholder must take into account distributions and other events occurring up to the time at which the return for the first taxable year is filed. Section 1.453–2(e) of the 1984 proposal is adopted as revised by this Treasury decision. The effective date provision in § 1.453–2(g) of the proposal is not adopted.

Recognition of Gain or Loss to the Distributing Corporation Under Section 453B

Under section 453B, the disposition of an installment obligation generally results in the recognition of gain or loss to the transferor. Thus, in accordance with sections 453B and 336, a C corporation generally recognizes gain or loss upon the distribution of an installment obligation to a shareholder in exchange for the shareholder's stock, including complete liquidations covered by section 453(h). Section 453B(d) provides an exception to this general rule if the installment obligation is distributed in a liquidation to which section 337(a) applies (regarding certain complete liquidations of 80 percent or more owned subsidiaries). However, that exception does not apply to liquidations under section 331.

In the case of a liquidating distribution by an S corporation, however, section 453B(h) provides that if an S corporation distributes an installment obligation in exchange for a shareholder's stock, and payments under the obligation are treated as consideration for the stock pursuant to section 453(h)(1), then the distribution generally is not treated as a disposition of the obligation by the S corporation. Thus, except for purposes of sections 1374 and 1375 (relating to certain built-in gains and passive investment income), the S corporation does not recognize gain or loss on the distribution of the installment obligation to a shareholder in a complete liquidation covered by section 453(h). One commentator believed that it is inequitable to allow a shareholder to recognize gain on the installment basis while the liquidating C corporation has immediate recognition upon distribution of an obligation. As an alternative, the commentator suggested that the corporation's tax liability arising from the distribution of an obligation carry over to the shareholders and be taken into account by them as payments are received on the obligation. The suggested approach would be inconsistent with the statutory provisions of sections 336 and 453B and, accordingly, is not adopted in the final regulations.

Another commentator requested that the regulations provide relief from a bunching of income that occurs for shareholders receiving liquidating distributions from S corporations. The bunching can occur, for example, by virtue of the interrelationship of the S corporation and installment sale provisions if, in the year in which assets are sold, an S corporation receives a payment on an installment obligation arising from the sale before the corporation liquidates. The commentator suggested that the regulations allow a shareholder first to apply the basis in the stock against the initial payment received, with any remaining basis allocated to any additional payments to be received. Since the bunching of income results from the successive application of section 453(c) at the corporate and shareholder levels and no statutory exception for shareholders of S corporations is provided, this issue cannot be appropriately addressed in these final regulations.

Incorporation of Guidance on Section 338(h)(10) Elections

Three commentators suggested that the regulations be expanded to address the use of the installment method to the sale of stock of a corporation with respect to which an election under section 338(h)(10) has been made. This issue does not arise under section 453(h) and is beyond the scope of these regulations.

Special Analyses

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

Drafting Information

The principal author of these regulations is George F. Wright of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

§ 1.453–11 also issued under 26 U.S.C. 453(j)(1) and (k). * * *

Par. 2. Section 1.453–11 is added to read as follows:

§ 1.453–11 Installment obligations received from a liquidating corporation.

(a) *In general*—(1) *Overview.* Except as provided in section 453(h)(1)(C)

(relating to installment sales of depreciable property to certain closely related persons), a qualifying shareholder (as defined in paragraph (b) of this section) who receives a qualifying installment obligation (as defined in paragraph (c) of this section) in a liquidation that satisfies section 453(h)(1)(A) treats the receipt of payments in respect of the obligation, rather than the receipt of the obligation itself, as a receipt of payment for the shareholder's stock. The shareholder reports the payments received on the installment method unless the shareholder elects otherwise in accordance with § 15a.453–1(d) of this chapter.

(2) *Coordination with other provisions*—(i) *Deemed sale of stock for installment obligation.* Except as specifically provided in section 453(h)(1)(C), a qualifying shareholder treats a qualifying installment obligation, for all purposes of the Internal Revenue Code, as if the obligation is received by the shareholder from the person issuing the obligation in exchange for the shareholder's stock in the liquidating corporation. For example, if the stock of a corporation that is liquidating is traded on an established securities market, an installment obligation distributed to a shareholder of the corporation in exchange for the shareholder's stock does not qualify for installment reporting pursuant to section 453(k)(2).

(ii) *Special rules to account for the qualifying installment obligation*—(A) *Issue price.* A qualifying installment obligation is treated by a qualifying shareholder as newly issued on the date of the distribution. The issue price of the qualifying installment obligation on that date is equal to the sum of the adjusted issue price of the obligation on the date of the distribution (as determined under § 1.1275–1(b)) and the amount of any qualified stated interest (as defined in § 1.1273–1(c)) that has accrued prior to the distribution but that is not payable until after the distribution. For purposes of the preceding sentence, if the qualifying installment obligation is subject to § 1.446–2 (e.g., a debt instrument that has unstated interest under section 483), the adjusted issue price of the obligation is determined under § 1.446–2(c) and (d).

(B) *Variable rate debt instrument.* If the qualifying installment obligation is a variable rate debt instrument (as defined in § 1.1275–5), the shareholder uses the equivalent fixed rate debt instrument (within the meaning of § 1.1275–5(e)(3)(ii)) constructed for the qualifying installment obligation as of the date the obligation was issued to the liquidating corporation to determine the accruals of original issue discount, if any, and interest on the obligation.

(3) *Liquidating distributions treated as selling price.* All amounts distributed or treated as distributed to a qualifying shareholder incident to the liquidation, including cash, the issue price of qualifying installment obligations as determined under paragraph (a)(2)(ii)(A) of this section, and the fair market value of other property (including obligations that are not qualifying installment obligations) are considered as having been received by the shareholder as the selling price (as defined in § 15a.453–1(b)(2)(ii) of this chapter) for the shareholder's stock in the liquidating corporation. For the proper method of reporting liquidating distributions received in more than one taxable year of a shareholder, see paragraph (d) of this section. An election not to report on the installment method an installment obligation received in the liquidation applies to all distributions received in the liquidation.

(4) *Assumption of corporate liability by shareholders.* For purposes of this section, if in the course of a liquidation a shareholder assumes secured or unsecured liabilities of the liquidating corporation, or receives property from the corporation subject to such liabilities (including any tax liabilities incurred by the corporation on the distribution), the amount of the liabilities is added to the shareholder's basis in the stock of the liquidating corporation. These additions to basis do not affect the shareholder's holding period for the stock. These liabilities do not reduce the amounts received in computing the selling price.

(5) *Examples.* The provisions of this paragraph (a) are illustrated by the following examples. Except as otherwise provided, assume in each example that A, an individual who is a calendar-year taxpayer, owns all of the stock of T corporation. A's adjusted tax basis in that stock is $100,000. On February 1, 1998, T, an accrual method taxpayer, adopts a plan of complete liquidation that satisfies section 453(h)(1)(A) and immediately sells all of its assets to unrelated B corporation in a single transaction. The examples are as follows:

Example 1. (i) The stated purchase price for T's assets is $3,500,000. In consideration for the sale, B makes a down payment of $500,000 and issues a 10-year installment obligation with a stated principal amount of $3,000,000. The obligation provides for interest payments of $150,000 on January 31 of each year, with the total principal amount due at maturity.

(ii) Assume that for purposes of section 1274, the test rate on February 1, 1998, is 8 percent, compounded semi-annually. Also assume that a semi-annual accrual period is used. Under § 1.1274–2, the issue price of the obligation on February 1, 1998, is $2,368,450. Accordingly, the obligation has $631,550 of original issue discount ($3,000,000–$2,368,450). Between February 1 and July 31, $19,738 of original issue discount and $75,000 of qualified stated interest accrue with respect to the obligation and are taken into account by T.

(iii) On July 31, 1998, T distributes the installment obligation to A in exchange for A's stock. No other property is ever distributed to A. On January 31, 1999, A receives the first annual payment of $150,000 from B.

(iv) When the obligation is distributed to A on July 31, 1998, it is treated as if the obligation is received by A in an installment sale of shares directly to B on that date. Under § 1.1275–1(b), the adjusted issue price of the obligation on that date is $2,388,188 (original issue price of $2,368,450 plus accrued original issue discount of $19,738). Accordingly, the issue price of the obligation under paragraph (a)(2)(ii)(A) of this section is $2,463,188, the sum of the adjusted issue price of the obligation on that date ($2,388,188) and the amount of accrued but unpaid qualified stated interest ($75,000).

(v) The selling price and contract price of A's stock in T is $2,463,188, and the gross profit is $2,363,188 ($2,463,188 selling price less A's adjusted tax basis of $100,000). A's gross profit ratio is thus 96 percent (gross profit of $2,363,188 divided by total contract price of $2,463,188).

(vi) Under §§ 1.446–2(e)(1) and 1.1275–2(a), $98,527 of the $150,000 payment is treated as a payment of the interest and original issue discount that accrued on the obligation from July 31, 1998, to January 31, 1999 ($75,000 of qualified stated interest and $23,527 of original issue discount). The balance of the payment ($51,473) is treated as a payment of principal. A's gain recognized in 1999 is $49,414 (96 percent of $51,473).

Example 2. (i) T owns Blackacre, unimproved real property, with an adjusted tax basis of $700,000. Blackacre is subject to a mortgage (underlying mortgage) of $1,100,000. A is not personally liable on the underlying mortgage and the T shares held by A are not encumbered by the underlying mortgage. The other assets of T consist of $400,000 of cash and $600,000 of accounts receivable attributable to sales of inventory in the ordinary course of business. The unsecured liabilities of T total $900,000.

(ii) On February 1, 1998, T adopts a plan of complete liquidation complying with section 453(h)(1)(A), and promptly sells Blackacre to B for a 4-year mortgage note (bearing adequate stated interest and otherwise meeting all of the requirements of section 453) in the face amount of $4 million. Under the agreement between T and B, T (or its successor) is to continue to make principal and interest payments on the underlying mortgage. Immediately thereafter, T completes its liquidation by distributing to A its remaining cash of $400,000 (after

payment of T's tax liabilities), accounts receivable of $600,000, and the $4 million B note. A assumes T's $900,000 of unsecured liabilities and receives the distributed property subject to the obligation to make payments on the $1,100,000 underlying mortgage. A receives no payments from B on the B note during 1998.

(iii) Unless A elects otherwise, the transaction is reported by A on the installment method. The selling price is $5 million (cash of $400,000, accounts receivable of $600,000, and the B note of $4 million). The total contract price also is $5 million. A's adjusted tax basis in the T shares, initially $100,000, is increased by the $900,000 of unsecured T liabilities assumed by A and by the obligation (subject to which A takes the distributed property) to make payments on the $1,100,000 underlying mortgage on Blackacre, for an aggregate adjusted tax basis of $2,100,000. Accordingly, the gross profit is $2,900,000 (selling price of $5 million less aggregate adjusted tax basis of $2,100,000). The gross profit ratio is 58 percent (gross profit of $2,900,000 divided by the total contract price of $5 million). The 1998 payments to A are $1 million ($400,000 cash plus $600,000 receivables) and A recognizes gain in 1998 of $580,000 (58 percent of $1 million).

(iv) In 1999, A receives payment from B on the B note of $1 million (exclusive of interest). A's gain recognized in 1999 is $580,000 (58 percent of $1 million).

(b) *Qualifying shareholder.* For purposes of this section, *qualifying shareholder* means a shareholder to which, with respect to the liquidating distribution, section 331 applies. For example, a creditor that receives a distribution from a liquidating corporation, in exchange for the creditor's claim, is not a qualifying shareholder as a result of that distribution regardless of whether the liquidation satisfies section 453(h)(1)(A).

(c) *Qualifying installment obligation*—(1) *In general.* For purposes of this section, *qualifying installment obligation* means an installment obligation (other than an evidence of indebtedness described in § 15a.453–1(e) of this chapter, relating to obligations that are payable on demand or are readily tradable) acquired in a sale or exchange of corporate assets by a liquidating corporation during the 12-month period beginning on the date the plan of liquidation is adopted. See paragraph (c)(4) of this section for an exception for installment obligations acquired in respect of certain sales of inventory. Also see paragraph (c)(5) of this section for an exception for installment obligations attributable to sales of certain property that do not generally qualify for installment method treatment.

(2) *Corporate assets.* Except as provided in section 453(h)(1)(C), in paragraph (c)(4) of this section (relating to certain sales of inventory), and in paragraph (c)(5) of this section (relating to certain tax avoidance transactions), the nature of the assets sold by, and the tax consequences to, the selling corporation do not affect whether an installment obligation is a qualifying installment obligation. Thus, for example, the fact that the fair market value of an asset is less than the adjusted basis of that asset in the hands of the corporation; or that the sale of an asset will subject the corporation to depreciation recapture (e.g., under section 1245 or section 1250); or that the assets of a trade or business sold by the corporation for an installment obligation include depreciable property, certain marketable securities, accounts receivable, installment obligations, or cash; or that the distribution of assets to the shareholder is or is not taxable to the corporation under sections 336 and 453B, does not affect whether installment obligations received in exchange for those assets are treated as qualifying installment obligations by the shareholder. However, an obligation received by the corporation in exchange for cash, in a transaction unrelated to a sale or exchange of noncash assets by the corporation, is not treated as a qualifying installment obligation.

(3) *Installment obligations distributed in liquidations described in section 453(h)(1)(E)*—(i) *In general.* In the case of a liquidation to which section 453(h)(1)(E) (relating to certain liquidating subsidiary corporations) applies, a qualifying installment obligation acquired in respect of a sale or exchange by the liquidating subsidiary corporation will be treated as a qualifying installment obligation if distributed by a controlling corporate shareholder (within the meaning of section 368(c)) to a qualifying shareholder. The preceding sentence is applied successively to each controlling corporate shareholder, if any, above the first controlling corporate shareholder.

(ii) *Examples.* The provisions of this paragraph (c)(3) are illustrated by the following examples:

Example 1. (i) A, an individual, owns all of the stock of T corporation, a C corporation. T has an operating division and three wholly-owned subsidiaries, X, Y, and Z. On February 1, 1998, T, Y, and Z all adopt plans of complete liquidation.

(ii) On March 1, 1998, the following sales are made to unrelated purchasers: T sells the assets of its operating division to B for cash and an installment obligation. T sells the stock of X to C for an installment obligation. Y sells all of its assets to D for an installment obligation. Z sells all of its assets to E for cash. The B, C, and D installment obligations bear adequate stated interest and meet the requirements of section 453.

(iii) In June 1998, Y and Z completely liquidate, distributing their respective assets (the D installment obligation and cash) to T. In July 1998, T completely liquidates, distributing to A cash and the installment obligations respectively issued by B, C, and D. The liquidation of T is a liquidation to which section 453(h) applies and the liquidations of Y and Z into T are liquidations to which section 332 applies.

(iv) Because T is in control of Y (within the meaning of section 368(c)), the D obligation acquired by Y is treated as acquired by T pursuant to section 453(h)(1)(E). A is a qualifying shareholder and the installment obligations issued by B, C, and D are qualifying installment obligations. Unless A elects otherwise, A reports the transaction on the installment method as if the cash and installment obligations had been received in an installment sale of the stock of T corporation. Under section 453B(d), no gain or loss is recognized by Y on the distribution of the D installment obligation to T. Under sections 453B(a) and 336, T recognizes gain or loss on the distribution of the B, C, and D installment obligations to A in exchange for A's stock.

Example 2. (i) A, a cash-method individual taxpayer, owns all of the stock of P corporation, a C corporation. P owns 30 percent of the stock of Q corporation. The balance of the Q stock is owned by unrelated individuals. On February 1, 1998, P adopts a plan of complete liquidation and sells all of its property, other than its Q stock, to B, an unrelated purchaser for cash and an installment obligation bearing adequate stated interest. On March 1, 1998, Q adopts a plan of complete liquidation and sells all of its property to an unrelated purchaser, C, for cash and installment obligations. Q immediately distributes the cash and installment obligations to its shareholders in completion of its liquidation. Promptly thereafter, P liquidates, distributing to A cash, the B installment obligation, and a C installment obligation that P received in the liquidation of Q.

(ii) In the hands of A, the B installment obligation is a qualifying installment obligation. In the hands of P, the C installment obligation was a qualifying installment obligation. However, in the hands of A, the C installment obligation is not treated as a qualifying installment obligation because P owned only 30 percent of the stock of Q. Because P did not own the requisite 80 percent stock interest in Q, P was not a controlling corporate shareholder of Q (within the meaning of section 368(c)) immediately before the liquidation. Therefore, section 453(h)(1)(E) does not apply. Thus, in the hands of A, the C obligation is considered to be a third-party note (not a purchaser's evidence of indebtedness) and is treated as a payment to A in the year of distribution. Accordingly, for 1998, A reports as payment the cash and the fair market value of the C obligation distributed to A in the liquidation of P.

(iii) Because P held 30 percent of the stock of Q, section 453B(d) is inapplicable to P. Under sections 453B(a) and 336, accordingly,

Q recognizes gain or loss on the distribution of the C obligation. P also recognizes gain or loss on the distribution of the B and C installment obligations to A in exchange for A's stock. See sections 453B and 336.

(4) *Installment obligations attributable to certain sales of inventory*—(i) *In general.* An installment obligation acquired by a corporation in a liquidation that satisfies section 453(h)(1)(A) in respect of a broken lot of inventory is not a qualifying installment obligation. If an installment obligation is acquired in respect of a broken lot of inventory and other assets, only the portion of the installment obligation acquired in respect of the broken lot of inventory is not a qualifying installment obligation. The portion of the installment obligation attributable to other assets is a qualifying installment obligation. For purposes of this section, the term *broken lot of inventory* means inventory property that is sold or exchanged other than in bulk to one person in one transaction involving substantially all of the inventory property attributable to a trade or business of the corporation. See paragraph (c)(4)(ii) of this section for rules for determining what portion of an installment obligation is not a qualifying installment obligation and paragraph (c)(4)(iii) of this section for rules determining the application of payments on an installment obligation only a portion of which is a qualifying installment obligation.

(ii) *Rules for determining nonqualifying portion of an installment obligation.* If a broken lot of inventory is sold to a purchaser together with other corporate assets for consideration consisting of an installment obligation and either cash, other property, the assumption of (or taking property subject to) corporate liabilities by the purchaser, or some combination thereof, the installment obligation is treated as having been acquired in respect of a broken lot of inventory only to the extent that the fair market value of the broken lot of inventory exceeds the sum of unsecured liabilities assumed by the purchaser, secured liabilities which encumber the broken lot of inventory and are assumed by the purchaser or to which the broken lot of inventory is subject, and the sum of the cash and fair market value of other property received. This rule applies solely for the purpose of determining the portion of the installment obligation (if any) that is attributable to the broken lot of inventory.

(iii) *Application of payments.* If, by reason of the application of paragraph (c)(4)(ii) of this section, a portion of an installment obligation is not a qualifying installment obligation, then for purposes of determining the amount of gain to be reported by the shareholder under section 453, payments on the obligation (other than payments of qualified stated interest) shall be applied first to the portion of the obligation that is not a qualifying installment obligation.

(iv) *Example.* The following example illustrates the provisions of this paragraph (c)(4). In this example, assume that all obligations bear adequate stated interest within the meaning of section 1274(c)(2) and that the fair market value of each nonqualifying installment obligation equals its face amount. The example is as follows:

Example. (i) P corporation has three operating divisions, X, Y, and Z, each engaged in a separate trade or business, and a minor amount of investment assets. On July 1, 1998, P adopts a plan of complete liquidation that meets the criteria of section 453(h)(1)(A). The following sales are promptly made to purchasers unrelated to P: P sells all of the assets of the X division (including all of the inventory property) to B for $30,000 cash and installment obligations totalling $200,000. P sells substantially all of the inventory property of the Y division to C for a $100,000 installment obligation, and sells all of the other assets of the Y division (excluding cash but including installment receivables previously acquired in the ordinary course of the business of the Y division) to D for a $170,000 installment obligation. P sells ⅓ of the inventory property of the Z division to E for $100,000 cash, ⅓ of the inventory property of the Z division to F for a $100,000 installment obligation, and all of the other assets of the Z division (including the remaining ⅓ of the inventory property worth $100,000) to G for $60,000 cash, a $240,000 installment obligation, and the assumption by G of the liabilities of the Z division. The liabilities assumed by G, which are unsecured liabilities and liabilities encumbering the inventory property acquired by G, aggregate $30,000. Thus, the total purchase price G pays is $330,000.

(ii) P immediately completes its liquidation, distributing the cash and installment obligations, which otherwise meet the requirements of section 453, to A, an individual cash-method taxpayer who is its sole shareholder. In 1999, G makes a payment to A of $100,000 (exclusive of interest) on the $240,000 installment obligation.

(iii) In the hands of A, the installment obligations issued by B, C, and D are qualifying installment obligations because they were timely acquired by P in a sale or exchange of its assets. In addition, the installment obligation issued by C is a qualifying installment obligation because it arose from a sale to one person in one transaction of substantially all of the inventory property of the trade or business engaged in by the Y division.

(iv) The installment obligation issued by F is not a qualifying installment obligation because it is in respect of a broken lot of inventory. A portion of the installment obligation issued by G is a qualifying installment obligation and a portion is not a qualifying installment obligation, determined as follows: G purchased part of the inventory property (with a fair market value of $100,000) and all of the other assets of the Z division by paying cash ($60,000), issuing an installment obligation ($240,000), and assuming liabilities of the Z division ($30,000). The assumed liabilities ($30,000) and cash ($60,000) are attributed first to the inventory property. Therefore, only $10,000 of the $240,000 installment obligation is attributed to inventory property. Accordingly, in the hands of A, the G installment obligation is a qualifying installment obligation to the extent of $230,000, but is not a qualifying installment obligation to the extent of the $10,000 attributable to the inventory property.

(v) In the 1998 liquidation of P, A receives a liquidating distribution as follows:

Item	Qualifying installment obligations	Cash and other property
Cash	.....	$190,000
B note	$200,000	.....
C note	$100,000	.....
D note	$170,000	.....
F note	.....	$100,000
G note [1]	$230,000	$ 10,000
Total	$700,000	$300,000

[1] Face amount $240,000.

(vi) Assume that A's adjusted tax basis in the stock of P is $100,000. Under the installment method, A's selling price and the contract price are both $1 million, the gross profit is $900,000 (selling price of $1 million less adjusted tax basis of $100,000), and the gross profit ratio is 90 percent (gross profit of $900,000 divided by the contract price of $1 million). Accordingly, in 1998, A reports gain of $270,000 (90 percent of $300,000 payment in cash and other property). A's adjusted tax basis in each of the qualifying installment obligations is an amount equal to 10 percent of the obligation's respective face amount. A's adjusted tax basis in the F note, a nonqualifying installment obligation, is $100,000, i.e., the fair market value of the note when received by A. A's adjusted tax basis in the G note, a mixed obligation, is $33,000 (10 percent of the $230,000 qualifying installment obligation portion of the note, plus the $10,000 nonqualifying portion of the note).

(vii) With respect to the $100,000 payment received from G in 1999, $10,000 is treated as the recovery of the adjusted tax basis of the nonqualifying portion of the G installment obligation and $9,000 (10 percent of $90,000) is treated as the recovery of the adjusted tax basis of the portion of the note that is a qualifying installment obligation. The remaining $81,000 (90 percent of $90,000) is reported as gain from the sale of A's stock. See paragraph (c)(4)(iii) of this section.

(5) *Installment obligations attributable to sales of certain property*—(i) *In general.* An installment obligation acquired by a liquidating corporation, to the extent attributable to the sale of property described in paragraph (c)(5)(ii) of this section, is not a qualifying obligation if the corporation is formed or availed of for a principal purpose of avoiding section 453(b)(2) (relating to dealer dispositions and certain other dispositions of personal property), section 453(i) (relating to sales of property subject to recapture), or section 453(k) (relating to dispositions under a revolving credit plan and sales of stock or securities traded on an established securities market) through the use of a party bearing a relationship, either directly or indirectly, described in section 267(b) to any shareholder of the corporation.

(ii) *Covered property.* Property is described in this paragraph (c)(5)(ii) if, within 12 months before or after the adoption of the plan of liquidation, the property was owned by any shareholder and—

(A) The shareholder regularly sold or otherwise disposed of personal property of the same type on the installment plan or the property is real property that the shareholder held for sale to customers in the ordinary course of a trade or business (provided the property is not described in section 453(l)(2) (relating to certain exceptions to the definition of dealer dispositions));

(B) The sale of the property by the shareholder would result in recapture income (within the meaning of section 453(i)(2)), but only if the amount of the recapture income is equal to or greater than 50 percent of the property's fair market value on the date of the sale by the corporation;

(C) The property is stock or securities that are traded on an established securities market; or

(D) The sale of the property by the shareholder would have been under a revolving credit plan.

(iii) *Safe harbor.* Paragraph (c)(5)(i) of this section will not apply to the liquidation of a corporation if, on the date the plan of complete liquidation is adopted and thereafter, less than 15 percent of the fair market value of the corporation's assets is attributable to property described in paragraph (c)(5)(ii) of this section.

(iv) *Example.* The provisions of this paragraph (c)(5) are illustrated by the following example:

Example. Ten percent of the fair market value of the assets of T is attributable to stock and securities traded on an established securities market. T owns no other assets described in paragraph (c)(5)(ii) of this section. T, after adopting a plan of complete liquidation, sells all of its stock and securities holdings to C corporation in exchange for an installment obligation bearing adequate stated interest, sells all of its other assets to B corporation for cash, and distributes the cash and installment obligation to its sole shareholder, A, in a complete liquidation that satisfies section 453(h)(1)(A). Because the C installment obligation arose from a sale of publicly traded stock and securities, T cannot report the gain on the sale under the installment method pursuant to section 453(k)(2). In the hands of A, however, the C installment obligation is treated as having arisen out of a sale of the stock of T corporation. In addition, the general rule of paragraph (c)(5)(i) of this section does not apply, even if a principal purpose of the liquidation was the avoidance of section 453(k)(2), because the fair market value of the publicly traded stock and securities is less than 15 percent of the total fair market value of T's assets. Accordingly, section 453(k)(2) does not apply to A, and A may use the installment method to report the gain recognized on the payments it receives in respect of the obligation.

(d) *Liquidating distributions received in more than one taxable year.* If a qualifying shareholder receives liquidating distributions to which this section applies in more than one taxable year, the shareholder must reasonably estimate the gain attributable to distributions received in each taxable year. In allocating basis to calculate the gain for a taxable year, the shareholder must reasonably estimate the anticipated aggregate distributions. For this purpose, the shareholder must take into account distributions and other relevant events or information that the shareholder knows or reasonably could know up to the date on which the federal income tax return for that year is filed. If the gain for a taxable year is properly taken into account on the basis of a reasonable estimate and the exact amount is subsequently determined the difference, if any, must be taken into account for the taxable year in which the subsequent determination is made. However, the shareholder may file an amended return for the earlier year in lieu of taking the difference into account for the subsequent taxable year.

(e) *Effective date.* This section is applicable to distributions of qualifying installment obligations made on or after January 28, 1998.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: December 18, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 98–1820 Filed 1–27–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8760]

RIN 1545–AU72 and 1545–AU73

Continuity of Interest and Continuity of Business Enterprise

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing guidance regarding satisfaction of the continuity of interest and continuity of business enterprise requirements for corporate reorganizations. The final regulations affect corporations and their shareholders.

DATES: These regulations are effective January 28, 1998.

Applicability: These regulations apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

FOR FURTHER INFORMATION CONTACT: Regarding § 1.368–1(e) (continuity of interest) §§ 1.338–2 and 1.368–1 (a) and (b): Phoebe Bennett, (202) 622–7750 (not a toll-free number); regarding § 1.368–1(d) (continuity of business enterprise) and, §§ 1.368–1 (a) and (b), 1.368–2(k): Marlene Peake Oppenheim, (202) 622–7750 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1996, the IRS published a notice of proposed rulemaking (REG–252231–96) in the **Federal Register** (61 FR 67512) relating to the continuity of interest (COI) requirement (proposed COI regulations). On January 3, 1997, the IRS published a notice of proposed rulemaking (REG–252233–96) in the **Federal Register** (62 FR 36101) (proposed COBE regulations) relating to (1) the continuity of business enterprise (COBE) requirement; and (2) transfers of acquired assets or stock following certain otherwise qualifying reorganizations (remote continuity of interest). Many written comments were received in response to these notices of proposed rulemaking. A public hearing on both proposed regulations was held on May 7, 1997. After consideration of all comments, the regulations proposed by REG–252231–96 and REG–252233–96 are adopted as revised by this

Treasury decision, along with temporary regulations and proposed regulations cross-referencing the temporary regulations regarding COI published elsewhere in this issue of the **Federal Register**.

Explanation of Provisions

The Internal Revenue Code of 1986 provides general nonrecognition treatment for reorganizations specifically described in section 368. In addition to complying with the statutory requirements and certain other requirements, a transaction generally must satisfy the continuity of interest requirement and the continuity of business enterprise requirement.

A. Continuity of Interest

The purpose of the continuity of interest requirement is to prevent transactions that resemble sales from qualifying for nonrecognition of gain or loss available to corporate reorganizations. The final regulations provide that the COI requirement is satisfied if in substance a substantial part of the value of the proprietary interest in the target corporation (T) is preserved in the reorganization. A proprietary interest in T is preserved if, in a potential reorganization, it is exchanged for a proprietary interest in the issuing corporation (P), it is exchanged by the acquiring corporation for a direct interest in the T enterprise, or it otherwise continues as a proprietary interest in T. The *issuing corporation* means the acquiring corporation (as the term is used in section 368(a)), except that, in determining whether a reorganization qualifies as a triangular reorganization (as defined in § 1.358–6(b)(2)), the issuing corporation means the corporation in control of the acquiring corporation. However, a proprietary interest in T is not preserved if, in connection with the potential reorganization, it is acquired by P for consideration other than P stock, or P stock furnished in exchange for a proprietary interest in T if the potential reorganization is redeemed. All facts and circumstances must be considered in determining whether, in substance, a proprietary interest in T is preserved.

Rationale for the COI Regulations

The proposed and final regulations permit former T shareholders to sell P stock received in a potential reorganization to third parties without causing the reorganization to fail to satisfy the COI requirement. Some commentators have questioned whether the regulations are consistent with existing authorities.

The COI requirement was applied first to reorganization provisions that did not specify that P exchange a proprietary interest in P for a proprietary interest in T. Supreme Court cases imposed the COI requirement to further Congressional intent that tax-free status be accorded only to transactions where P exchanges a substantial proprietary interest in P for a proprietary interest in T held by the T shareholders rather than to transactions resembling sales. See *LeTulle* v. *Scofield,* 308 U.S. 415 (1940); *Helvering* v. *Minnesota Tea Co.,* 296 U.S. 378 (1935); *Pinellas Ice & Cold Storage Co.* v. *Commissioner,* 287 U.S. 462 (1933). See also *Cortland Specialty Co.* v. *Commissioner,* 60 F.2d 937 (2d Cir. 1932), *cert. denied* 288 U.S. 599 (1933).

None of the Supreme Court cases establishing the COI requirement addressed the issue of whether sales by former T shareholders of P stock received in exchange for T stock in the potential reorganization cause the COI requirement to fail to be satisfied. Since then, however, some courts have premised decisions on the assumption that sales of P stock received in exchange for T stock in the potential reorganization may cause the COI requirement to fail to be satisfied. *McDonald's Restaurants of Illinois, Inc.* v. *Commissioner,* 688 F.2d 520 (7th Cir. 1982); *Penrod* v. *Commissioner,* 88 T.C. 1415 (1987); *Heintz* v. *Commissioner,* 25 T.C. 132 (1955), *nonacq.,* 1958–2 C.B. 9; *Estate of Elizabeth Christian* v. *Commissioner,* 57 T.C.M. (CCH) 1231 (1989). The apparent focus of these cases is on whether the T shareholders intended on the date of the potential reorganization to sell their P stock and the degree, if any, to which P facilitates the sale. Based on an intensive inquiry into nearly identical facts, some of these cases held that as a result of the subsequent sale the potential reorganization did not satisfy the COI requirement; others held that satisfaction of the COI requirement was not adversely affected by the subsequent sale. The IRS and Treasury Department have concluded that the law as reflected in these cases does not further the principles of reorganization treatment and is difficult for both taxpayers and the IRS to apply consistently.

Therefore, consistent with Congressional intent and the Supreme Court precedent which distinguishes between sales and reorganizations, the final regulations focus the COI requirement generally on exchanges between the T shareholders and P. Under this approach, sales of P stock by former T shareholders generally are disregarded.

The final regulations will greatly enhance administrability in this area by both taxpayers and the government. The regulations will prevent ''whipsaw'' of the government, such as where the former T shareholders treat the transaction as a tax-free reorganization, and P later disavows reorganization treatment to step up its basis in the T assets based on the position that sales of P stock by the former T shareholders did not satisfy the COI requirement. See, e.g., *McDonald's Restaurants, supra.* In addition, this approach will prevent unilateral sales of P stock by former majority T shareholders from adversely affecting the section 354 nonrecognition treatment expected by former minority T shareholders.

Dispositions of T Stock

The proposed COI regulations do not specifically address the effect upon COI of dispositions of T stock prior to a potential reorganization, but ask for comments on that issue. The IRS and Treasury Department believe that issues concerning the COI requirement raised by dispositions of T stock before a potential reorganization correspond to those raised by subsequent dispositions of P stock furnished in exchange for T stock in the potential reorganization. As requested by commentators, the final regulations apply the rationale of the proposed COI regulations to transactions occurring both prior to and after a potential reorganization. Cf. *J.E. Seagram Corp.* v. *Commissioner,* 104 T.C. 75 (1995) (sales of T stock prior to a potential reorganization do not affect COI if not part of the plan of reorganization). The final regulations provide that, for COI purposes, a mere disposition of T stock prior to a potential reorganization to persons not related to P is disregarded and a mere disposition of P stock received in a potential reorganization to persons not related to P is disregarded. But see § 1.368–1T(e)(1)(ii)(A) and (B).

In soliciting comments on the effect upon COI of dispositions of T stock prior to a potential reorganization, the preamble to the proposed COI regulations specifically requests comments on *King Enterprises, Inc.* v. *United States,* 418 F.2d 511 (Ct. Cl. 1969) (COI requirement satisfied where, pursuant to a plan, P acquires the T stock for 51 percent P stock and 49 percent debt and cash, and T merges upstream into P), and *Yoc Heating Corp.* v. *Commissioner,* 61 T.C. 168 (1973) (COI requirement not satisfied where, pursuant to a plan, P acquires 85 percent of the T stock for cash and notes, and T merges into P's newly formed subsidiary with minority

shareholders receiving cash). Consistent with these cases, where the step transaction doctrine applies to link T stock purchases with later acquisitions of T, the final regulations provide that a proprietary interest in T is not preserved if, in connection with the potential reorganization, it is acquired by P for consideration other than P stock. Whether a stock acquisition is made in connection with a potential reorganization will be determined based on the facts and circumstances of each case. See generally § 1.368–1(a). This regulation does not address the effect, if any, of section 338 on corporate transactions (except for conforming changes to § 1.338–2(c)(3)). See generally § 1.338–2(c)(3) (certain tax effects of a qualified stock purchase without a section 338 election on the post-acquisition elimination of T).

Related Person Rule

The proposed COI regulations provide that ''[i]n determining whether [COI is satisfied], all facts and circumstances must be considered, including any plan or arrangement for the acquiring corporation or its successor corporation (or a person related to the acquiring corporation or its successor corporation within the meaning of section 707(b)(1) or 267(b) (without regard to section 267(e))) to redeem or acquire the consideration provided in the reorganization.'' The final regulations provide a more specific rule that a proprietary interest in T is not preserved if, in connection with a potential reorganization, a person related (as defined below) to P acquires, with consideration other than a proprietary interest in P, T stock or P stock furnished in exchange for a proprietary interest in T in the potential reorganization. The IRS and Treasury Department believe, however, that certain related party acquisitions preserve a proprietary interest in T and therefore, the rule includes an exception to the related party rule. Under this exception, a proprietary interest in T is preserved to the extent those persons who were the direct or indirect owners of T prior to the potential reorganization maintain a direct or indirect proprietary interest in P. See, e.g., Rev. Rul. 84–30 (1984–1 C.B. 114).

Commentators stated that the proposed COI regulations' rule, which employs sections 707(b)(1) and 267(b) to define persons related to P, is too broad. In response, the final regulations adopt a narrower related person definition which has two components in order to address two separate concerns.

First, the IRS and Treasury Department were concerned that acquisitions of T or P stock by a member of P's affiliated group were no different in substance from an acquisition or redemption by P, because of the existence of various provisions in the Code that permit members to transfer funds to other members without significant tax consequences. Accordingly, § 1.368–1(e)(3)(i)(A) includes as related persons corporations that are members of the same affiliated group under section 1504, without regard to the exceptions in section 1504(b).

Second, because the final regulations take into account whether, in substance, P has redeemed the stock it exchanged for T stock in the potential reorganization, the final regulations treat two corporations as related persons if a purchase of the stock of one corporation by another corporation would be treated as a distribution in redemption of the stock of the first corporation under section 304(a)(2) (determined without regard to § 1.1502–80(b)).

Because the final regulations focus generally on the consideration P exchanges, related persons do not include individual or other noncorporate shareholders. Thus, the IRS will no longer apply the holdings of *South Bay Corporation* v. *Commissioner,* 345 F.2d 698 (2d Cir. 1965), and *Superior Coach of Florida, Inc.* v. *Commissioner,* 80 T.C. 895 (1983), to transactions governed by these regulations.

T Stock Not Acquired in Connection With a Potential Reorganization

Commentators requested clarification of whether P must actually furnish stock to T shareholders that own T stock which was not acquired in connection with a potential reorganization. The final regulations provide that a proprietary interest in T is preserved if it is exchanged by the acquiring corporation (which may or may not also be P) for a direct interest in the T enterprise, or otherwise continues as a proprietary interest in T.

Redemptions of T Stock or Extraordinary Distributions With Respect to T Stock

In addition to the final regulations, the IRS and Treasury Department are contemporaneously issuing temporary regulations and proposed regulations cross-referencing the temporary regulations published elsewhere in this issue of the **Federal Register** with the same effective date as these final regulations. The temporary and proposed regulations provide that a proprietary interest in T is not preserved if, in connection with a potential reorganization, it is redeemed or acquired by a person related to T, or to the extent that, prior to and in connection with a potential reorganization, an extraordinary distribution is made with respect to it.

Transactions Following a Qualified Stock Purchase

As stated above, these final regulations focus the COI requirement generally on exchanges between the T shareholders and P. Accordingly, the language of § 1.338–2(c)(3) is conformed to these final COI regulations to treat the stock of T acquired by the purchasing corporation in the qualified stock purchase as though it was not acquired in connection with the transfer of the T assets.

Effect on Other Authorities

The IRS and Treasury Department continue to study the role of the COI requirement in section 368(a)(1)(D) reorganizations and section 355 transactions. Therefore, these final COI regulations do not apply to section 368(a)(1)(D) reorganizations and section 355 transactions. See § 1.355–2(c).

These COI regulations apply solely for purposes of determining whether the COI requirement is satisfied. No inference should be drawn from any provision of this regulation as to whether other reorganization requirements are satisfied, for example, whether P has issued solely voting stock for purposes of section 368(a)(1)(B) or (C).

Effect on Other Documents

Rev. Proc. 77–37 (1977–2 C.B. 568) and Rev. Proc. 86–42 (1986–2 C.B. 722) will be modified to the extent inconsistent with these regulations.

Rev. Rul. 66–23 (1966–1 C.B. 67) is hereby obsoleted because it indicates that a plan or arrangement in connection with a potential reorganization for disposition of stock to unrelated persons does not satisfy the COI requirement.

B. Continuity of Business Enterprise

The COBE requirement is fundamental to the notion that tax-free reorganizations merely readjust continuing interests in property. In § 1.368–1(d), as effective prior to these final regulations, COBE generally required the acquiring corporation to either continue a significant historic T business or use a significant portion of T's historic business assets in a business. However, a valid reorganization may qualify as tax-free even if the acquiring corporation does

not directly carry on the historic T business or use the historic T assets in a business. See section 368(a)(2)(C). See also Rev. Rul. 68–261 (1968–1 C.B. 147); Rev. Rul. 81–247 (1981–1 C.B. 87).

Consistent with the view that the acquiring corporation need not directly conduct the T business or use the T assets, the final regulations provide rules under which, in an otherwise qualifying corporate reorganization, the assets and the businesses of the members of a qualified group of corporations are treated as assets and businesses of the issuing corporation. Accordingly, in the final regulations, COBE requires that the issuing corporation either continue T's historic business or use a significant portion of T's historic business assets in a business.

A qualified group is one or more chains of corporations connected through stock ownership with the issuing corporation, but only if the issuing corporation owns directly stock meeting the requirements of section 368(c) in at least one of the corporations, and stock meeting the requirements of section 368(c) in each of the corporations is owned directly by one of the other corporations.

The judicial continuity of interest doctrine historically included a concept commonly known as remote continuity of interest. Commonly viewed as arising out of *Groman* v. *Commissioner*, 302 U.S. 82 (1937), and *Helvering* v. *Bashford*, 302 U.S. 454 (1938), remote continuity of interest focuses on the link between the T shareholders and the former T business assets following the reorganization. In § 1.368–1(d), as effective prior to these final regulations, COBE focuses on the continuation of T's business, or the use of T's business assets, by the acquiring corporation. Section 1.368–1(d), as revised herein, expands this concept by treating the issuing corporation as conducting a T business or owning T business assets if these activities are conducted by a member of the qualified group or, in certain cases, by a partnership that has a member of the qualified group as a partner.

The proposed COBE regulations separately address COBE (§ 1.368–1(d)) and remote continuity of interest (§ 1.368–1(f)). The IRS and Treasury Department believe the COBE requirements adequately address the issues raised in *Groman* and *Bashford* and their progeny. Thus, these final regulations do not separately articulate rules addressing remote continuity of interest.

Definition of the Qualified Group

The proposed COBE regulations define the qualified group using a control test based on section 368(c). The IRS and Treasury Department received comments suggesting the replacement of the section 368(c) definition of control by the affiliated group definition of control stated in section 1504, without regard to section 1504(b). However, because section 368 generally determines control by reference to section 368(c), the final regulations retain the approach of the proposed COBE regulations.

Rules for Aggregation of Interests in Historic T Assets and Businesses Held in Partnership Solution

In determining whether COBE is satisfied, the proposed COBE regulations aggregate the interests of the members of a qualified group. In addition, the proposed COBE regulations attribute a business of a partnership to a corporate transferor partner if the partner has a sufficient nexus with that partnership business. However, the proposed COBE regulations only consider the transferor partner's interest in the partnership business, and do not aggregate this interest with interests in the partnership held by other members of the qualified group.

In response to comments requesting a partnership aggregation rule, the final regulations, through a system of attribution, aggregate the interests in a partnership business held by all the members of a qualified group. The final regulations provide rules under which a corporate partner may be treated as holding assets of a business of a partnership. Additionally, P is treated as holding all the assets, and conducting all the businesses of its qualified group. Furthermore, in certain circumstances, P will be treated as conducting a business of a partnership. Once the relevant T businesses and T assets are attributed to P, COBE is tested under the general rule of the final COBE regulations. See § 1.368–1(d)(1).

The proposed COBE regulations do not discuss tiered partnerships. In response to comments, the final regulations provide guidance on this issue. See § 1.368–1(d)(5), *Example 12*.

C. Transfers of Assets or Stock to Controlled Corporations as Part of a Plan of Reorganization

The proposed COBE regulations are limited in their application to COBE and remote continuity of interest. The rules of the proposed COBE regulations provide that for certain reorganizations, transfers of acquired assets or stock among members of the qualified group, and in certain cases, transfers of acquired assets to partnerships, do not disqualify a transaction from satisfying the COBE and remote continuity of interest requirements. The preamble to the proposed COBE regulations states that these rules do not address any other issues concerning the qualification of a transaction as a reorganization.

Comments suggest that the proposed COBE regulations are ambiguous as they could be interpreted to mean that a transfer of stock or assets to a qualified group member after an otherwise tax-free reorganization would be given independent significance and the step transaction doctrine would not apply. Under such an interpretation, the potential reorganization would not be recast as a taxable acquisition or another type of reorganization. To eliminate this ambiguity, § 1.368–1(a) of the final regulations provides that, in determining whether a transaction qualifies as a reorganization under section 368(a), the transaction must be evaluated under relevant provisions of law, including the step transaction doctrine. Section 1.368–1(d) of the final regulations is limited to a discussion of the COBE requirement, and does not address satisfaction of the explicit statutory requirements of a reorganization, which is the subject of § 1.368–2. However, § 1.368–2(k) of the final regulations does provide guidance in this regard, extending the application of section 368(a)(2)(C) to certain successive transfers.

Section 1.368–2(k) of the final regulations states that a transaction otherwise qualifying under section 368(a)(1) (A), (B), (C), or (G) (where the requirements of sections 354(b)(1) (A) and (B) are met) shall not be disqualified by reason of the fact that part or all of the acquired assets or stock acquired in the transaction are transferred or successively transferred to one or more corporations controlled in each transfer by the transferor corporation. Control is defined under section 368(c). The final regulations also provide a rule for transfers of assets following a reorganization qualifying under section 368(a)(1)(A) by reason of section 368(a)(2)(E). No inference is to be drawn as to whether transactions not described in § 1.368–2(k) otherwise qualify as reorganizations.

The final regulations also provide that, if a transaction otherwise qualifies as a reorganization, a corporation remains a party to the reorganization even though stock or assets acquired in the reorganization are transferred in a transaction described in § 1.368–2(k).

See § 1.368–2(f). Furthermore, if a transaction otherwise qualifies as a reorganization, a corporation shall not cease to be a party to the reorganization solely because acquired assets are transferred to a partnership in which the transferor is a partner if the COBE requirement is satisfied.

Section 368(a)(1)(D), 368(a)(1)(F), and 355 Transactions

The proposed COBE regulations, applying only to the COBE and remote continuity of interest requirements, are limited to transactions otherwise qualifying for reorganization treatment under section 368(a)(1) (A), (B), (C), or (G) (where the requirements of sections 354(b)(1) (A) and (B) are met). The IRS and Treasury Department received comments stating that the final regulations should apply to reorganizations qualifying under section 368(a)(1) (D) or (F) or to transactions qualifying under section 355.

The final regulations do not limit the application of § 1.368–1(d) to the transactions enumerated in section 368(a)(2)(C). The COBE provisions in the final regulations apply to all reorganizations for which COBE is relevant.

Section 1.368–2(k)(1) of the final regulations, however, is limited in its application to the transactions described in section 368(a)(2)(C), and does not apply in determining whether a reorganization qualifies under section 368(a)(1)(D), section 368(a)(1)(F), or section 355. The IRS and Treasury Department believe that further study is needed prior to extending § 1.368–2(k)(1) to one or more of these provisions.

Effective Date

The amendments to these regulations apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter. Commentators requested that the effective date be changed to allow these regulations to apply to transactions occurring on or before January 28, 1998. The IRS and Treasury Department believe that adopting an earlier effective date increases the likelihood that T, P, and each of the former T shareholders would report the transaction inconsistently (in some cases using hindsight), and would reduce administrability of the regulation. No inference should be drawn from any provision of this regulation as to application of the COI or COBE requirements to transactions occurring on or before January 28, 1998.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Phoebe Bennett, regarding § 1.368–1(e) (continuity of interest), and Marlene Peake Oppenheim, regarding § 1.368–1(d) (continuity of business enterprise) and § 1.368–2(k), both of the Office of the Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.338–2 is amended:

1. By revising paragraph (c)(3)(ii).

2. In paragraph (c)(3)(iv) example, by revising the first sentence of paragraph (B).

The revisions read as follows:

§ 1.338–2 Miscellaneous issues under section 338.

* * * * *

(c) * * *

(3) * * *

(ii) *Continuity of interest.* By virtue of section 338, in determining whether the continuity of interest requirement of § 1.368–1 (b) and (e) is satisfied on the transfer of assets from target to the transferee, the purchasing corporation's target stock acquired in the qualified stock purchase shall be treated as though it was not acquired in connection with the transfer of target assets.

* * * * *

(iv) *Example.* * * *

(B) *Status of transfer as a reorganization.* By virtue of section 338, for the purpose of determining whether the continuity of interest requirement of § 1.368–1(b) is satisfied, P's T stock acquired in the qualified stock purchase shall be treated as though it was not acquired in connection with the transfer of T assets to X. * * *

* * * * *

Par. 3. Section 1.368–1 is amended by:

1. Adding three sentences immediately following the first sentence of paragraph (a).

2. Removing the third sentence and adding four sentences in its place to paragraph (b).

3. Removing paragraph (d)(1).

4. Redesignating paragraphs (d)(2), (d)(3), and (d)(4) as paragraphs (d)(1), (d)(2), and (d)(3), respectively.

5. Removing the first sentence of newly designated paragraph (d)(1) and adding two sentences in its place.

6. Adding new paragraph (d)(4).

7. Paragraph (d)(5) is amended by:

a. Adding two sentences to the end of paragraph (d)(5) introductory text.

b. Removing the parentheses around the numbers in the paragraph headings for *Example (1)* through *Example (5).*

c. Adding *Example 6* through *Example 12*.

8. Adding paragraph (e).

The additions and revisions read as follows:

§ 1.368–1 Purpose and scope of exception of reorganization exchanges.

(a) * * * In determining whether a transaction qualifies as a reorganization under section 368(a), the transaction must be evaluated under relevant provisions of law, including the step transaction doctrine. But see §§ 1.368–2 (f) and (k) and 1.338–2(c)(3). The preceding two sentences apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. * * *

(b) * * * Requisite to a reorganization under the Internal Revenue Code are a continuity of the business enterprise through the issuing corporation under the modified corporate form as described in paragraph (d) of this

section, and (except as provided in section 368(a)(1)(D)) a continuity of interest as described in paragraph (e) of this section. (For rules regarding the continuity of interest requirement under section 355, see § 1.355–2(c).) For purposes of this section, the term *issuing corporation* means the acquiring corporation (as that term is used in section 368(a)), except that, in determining whether a reorganization qualifies as a triangular reorganization (as defined in § 1.358–6(b)(2)), the issuing corporation means the corporation in control of the acquiring corporation. The preceding three sentences apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

* * *

* * * * *

(d) *Continuity of business enterprise*—(1) *General rule.* Continuity of business enterprise (COBE) requires that the issuing corporation (P), as defined in paragraph (b) of this section, either continue the target corporation's (T's) historic business or use a significant portion of T's historic business assets in a business. The preceding sentence applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. * * *

* * * * *

(4) *Acquired assets or stock held by members of the qualified group or partnerships.* The following rules apply in determining whether the COBE requirement of paragraph (d)(1) of this section is satisfied:

(i) *Businesses and assets of members of a qualified group.* The issuing corporation is treated as holding all of the businesses and assets of all of the members of the qualified group, as defined in paragraph (d)(4)(ii) of this section.

(ii) *Qualified group.* A qualified group is one or more chains of corporations connected through stock ownership with the issuing corporation, but only if the issuing corporation owns directly stock meeting the requirements of section 368(c) in at least one other corporation, and stock meeting the requirements of section 368(c) in each of the corporations (except the issuing corporation) is owned directly by one of the other corporations.

(iii) *Partnerships*—(A) *Partnership assets.* Each partner of a partnership will be treated as owning the T business assets used in a business of the partnership in accordance with that partner's interest in the partnership.

(B) *Partnership businesses.* The issuing corporation will be treated as conducting a business of a partnership if —

(*1*) Members of the qualified group, in the aggregate, own an interest in the partnership representing a significant interest in that partnership business; or

(*2*) One or more members of the qualified group have active and substantial management functions as a partner with respect to that partnership business.

(C) *Conduct of the historic T business in a partnership.* If a significant historic T business is conducted in a partnership, the fact that P is treated as conducting such T business under paragraph (d)(4)(iii)(B) of this section tends to establish the requisite continuity, but is not alone sufficient.

(iv) *Effective date.* This paragraph (d)(4) applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

(5) * * * All corporations have only one class of stock outstanding. The preceding sentence and paragraph (d)(5) *Example 6* through *Example 12* apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

* * * * *

Example 6. Use of a significant portion of T's historic business assets by the qualified group. (i) *Facts.* T operates an auto parts distributorship. P owns 80 percent of the stock of a holding company (HC). HC owns 80 percent of the stock of ten subsidiaries, S–1 through S–10. S–1 through S–10 each separately operate a full service gas station. Pursuant to a plan of reorganization, T merges into P and the T shareholders receive solely P stock. As part of the plan of reorganization, P transfers T's assets to HC, which in turn transfers some of the T assets to each of the ten subsidiaries. No one subsidiary receives a significant portion of T's historic business assets. Each of the subsidiaries will use the T assets in the operation of its full service gas station. No P subsidiary will be an auto parts distributor.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(i) of this section, P is treated as conducting the ten gas station businesses of S–1 through S–10 and as holding the historic T assets used in those businesses. P is treated as holding all the assets and conducting the businesses of all of the members of the qualified group, which includes S–1 through S–10 (paragraphs (d)(4)(i) and (ii) of this section). No member of the qualified group continues T's historic distributorship business. However, subsidiaries S–1 through S–10 continue to use the historic T assets in a business. Even though no one corporation of the qualified group is using a significant portion of T's historic business assets in a business, the COBE requirement of paragraph (d)(1) of this section is satisfied because, in the aggregate, the qualified group is using a significant portion of T's historic business assets in a business.

Example 7. Continuation of the historic T business in a partnership satisfies continuity of business enterprise. (i) *Facts.* T manufactures ski boots. P owns all of the stock of S–1. S–1 owns all of the stock of S–2, and S–2 owns all of the stock of S–3. T merges into P and the T shareholders receive consideration consisting of P stock and cash. The T ski boot business is to be continued and expanded. In anticipation of this expansion, P transfers all of the T assets to S–1, S–1 transfers all of the T assets to S–2, and S–2 transfers all of the T assets to S–3. S–3 and X (an unrelated party) form a new partnership (PRS). As part of the plan of reorganization, S–3 transfers all the T assets to PRS, and S–3, in its capacity as a partner, performs active and substantial management functions for the PRS ski boot business, including making significant business decisions and regularly participating in the overall supervision, direction, and control of the employees of the ski boot business. S–3 receives a 20 percent interest in PRS. X transfers cash in exchange for an 80 percent interest in PRS.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(B)(*2*) of this section, P is treated as conducting T's historic business because S–3 performs active and substantial management functions for the ski boot business in S–3's capacity as a partner. P is treated as holding all the assets and conducting the businesses of all of the members of the qualified group, which includes S–3 (paragraphs (d)(4)(i) and (ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied.

Example 8. Continuation of the historic T business in a partnership does not satisfy continuity of business enterprise. (i) *Facts.* The facts are the same as *Example 7* except that S–3 transfers the historic T business to PRS in exchange for a 1 percent interest in PRS.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(B)(*2*) of this section, P is treated as conducting T's historic business because S–3 performs active and substantial management functions for the ski boot business in S–3's capacity as a partner. The fact that a significant historic T business is conducted in PRS, and P is treated as conducting such T business under (d)(4)(iii)(B) tends to establish the requisite continuity, but is not alone sufficient (paragraph (d)(4)(iii)(C) of this section). The COBE requirement of paragraph (d)(1) of this section is not satisfied.

Example 9. Continuation of the T historic business in a partnership satisfies continuity of business enterprise. (i) *Facts.* The facts are the same as *Example 7* except that S–3 transfers the historic T business to PRS in

exchange for a 33⅓ percent interest in PRS, and no member of P's qualified group performs active and substantial management functions for the ski boot business operated in PRS.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(B)(*1*) of this section, P is treated as conducting T's historic business because S–3 owns an interest in the partnership representing a significant interest in that partnership business. P is treated as holding all the assets and conducting the businesses of all of the members of the qualified group, which includes S–3 (paragraphs (d)(4)(i) and (ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied.

Example 10. Use of T's historic business assets in a partnership business. (i) *Facts.* T is a fabric distributor. P owns all of the stock of S–1. T merges into P and the T shareholders receive solely P stock. S–1 and X (an unrelated party) own interests in a partnership (PRS). As part of the plan of reorganization, P transfers all of the T assets to S–1, and S–1 transfers all the T assets to PRS, increasing S–1's percentage interest in PRS from 5 to 33⅓ percent. After the transfer, X owns the remaining 66⅔ percent interest in PRS. Almost all of the T assets consist of T's large inventory of fabric, which PRS uses to manufacture sportswear. All of the T assets are used in the sportswear business. No member of P's qualified group performs active and substantial management functions for the sportswear business operated in PRS.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(A) of this section, S–1 is treated as owning 33⅓ percent of the T assets used in the PRS sportswear manufacturing business. Under paragraph (d)(4)(iii)(B)(*1*) of this section, P is treated as conducting the sportswear manufacturing business because S–1 owns an interest in the partnership representing a significant interest in that partnership business. P is treated as holding all the assets and conducting the businesses of all of the members of the qualified group, which includes S–1 (paragraphs (d)(4)(i) and (ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied.

Example 11. Aggregation of partnership interests among members of the qualified group: use of T's historic business assets in a partnership business. (i) *Facts.* The facts are the same as *Example 10,* except that S–1 transfers all the T assets to PRS, and P and X each transfer cash to PRS in exchange for partnership interests. After the transfers, P owns 11 percent, S–1 owns 22⅓ percent, and X owns 66⅔ percent of PRS.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(B)(*1*) of this section, P is treated as conducting the sportswear manufacturing business because members of the qualified group, in the aggregate, own an interest in the partnership representing a significant interest in that business. P is treated as owning 11 percent of the assets directly, and S–1 is treated as owning 22⅓ percent of the assets, used in the PRS sportswear business (paragraph (d)(4)(iii)(A) of this section). P is treated as holding all the assets of all of the members of the qualified group, which includes S–1, and thus in the aggregate, P is treated as owning 33⅓ of the T assets (paragraphs (d)(4)(i) and (ii) of this section). The COBE requirement of paragraph (d)(1) of this section is satisfied because P is treated as using a significant portion of T's historic business assets in its sportswear manufacturing business.

Example 12. Tiered partnerships: use of T's historic business assets in a partnership business. (i) *Facts.* T owns and manages a commercial office building in state Z. Pursuant to a plan of reorganization, T merges into P, solely in exchange for P stock, which is distributed to the T shareholders. P transfers all of the T assets to a partnership, PRS–1, which owns and operates television stations nationwide. After the transfer, P owns a 50 percent interest in PRS–1. P does not have active and substantial management functions as a partner with respect to the PRS–1 business. X, not a member of P's qualified group, owns the remaining 50 percent interest in PRS–1. PRS–1, in an effort to expand its state Z television operation, enters into a joint venture with U, an unrelated party. As part of the plan of reorganization, PRS–1 transfers all the T assets and its state Z television station to PRS–2, in exchange for a 75 percent partnership interest. U contributes cash to PRS–2 in exchange for a 25 percent partnership interest and oversees the management of the state Z television operation. PRS–1 does not actively and substantially manage PRS–2's business. PRS–2's state Z operations are moved into the acquired T office building. All of the assets that P acquired from T are used in PRS–2's business.

(ii) *Continuity of business enterprise.* Under paragraph (d)(4)(iii)(A) of this section, PRS–1 is treated as owning 75 percent of the T assets used in PRS–2's business. P, in turn, is treated as owning 50 percent of PRS–1's interest the T assets. Thus, P is treated as owning 37½ percent (50 percent x 75 percent) of the T assets used in the PRS–2 business. Under paragraph (d)(4)(iii)(B)(*1*) of this section, P is treated as conducting PRS–2's business, the operation of the state Z television station, and under paragraph (d)(4)(iii)(A) of this section, P is treated as using 37½ percent of the historic T business assets in that business. The COBE requirement of paragraph (d)(1) of this section is satisfied because P is treated as using a significant portion of T's historic business assets in its television business.

(e) *Continuity of interest*—(1) *General rule.* (i) The purpose of the continuity of interest requirement is to prevent transactions that resemble sales from qualifying for nonrecognition of gain or loss available to corporate reorganizations. Continuity of interest requires that in substance a substantial part of the value of the proprietary interests in the target corporation be preserved in the reorganization. A proprietary interest in the target corporation is preserved if, in a potential reorganization, it is exchanged for a proprietary interest in the issuing corporation (as defined in paragraph (b) of this section), it is exchanged by the acquiring corporation for a direct interest in the target corporation enterprise, or it otherwise continues as a proprietary interest in the target corporation. However, a proprietary interest in the target corporation is not preserved if, in connection with the potential reorganization, it is acquired by the issuing corporation for consideration other than stock of the issuing corporation, or stock of the issuing corporation furnished in exchange for a proprietary interest in the target corporation in the potential reorganization is redeemed. All facts and circumstances must be considered in determining whether, in substance, a proprietary interest in the target corporation is preserved. For purposes of the continuity of interest requirement, a mere disposition of stock of the target corporation prior to a potential reorganization to persons not related (as defined in paragraph (e)(3) of this section determined without regard to paragraph (e)(3)(i)(A) of this section) to the target corporation or to persons not related (as defined in paragraph (e)(3) of this section) to the issuing corporation is disregarded and a mere disposition of stock of the issuing corporation received in a potential reorganization to persons not related (as defined in paragraph (e)(3) of this section) to the issuing corporation is disregarded.

(ii) [Reserved] For further guidance see § 1.368–1T(e)(1)(ii)(A) and (B).

(2) *Related person acquisitions.* (i) A proprietary interest in the target corporation is not preserved if, in connection with a potential reorganization, a person related (as defined in paragraph (e)(3) of this section) to the issuing corporation acquires, with consideration other than a proprietary interest in the issuing corporation, stock of the target corporation or stock of the issuing corporation furnished in exchange for a proprietary interest in the target corporation in the potential reorganization, except to the extent those persons who were the direct or indirect owners of the target corporation prior to the potential reorganization maintain a direct or indirect proprietary interest in the issuing corporation.

(ii) [Reserved] For further guidance see § 1.368–1T(e)(2)(ii).

(3) *Definition of related person*—(i) *In general.* For purposes of this paragraph (e), two corporations are related persons if either—

(A) The corporations are members of the same affiliated group as defined in

section 1504 (determined without regard to section 1504(b)); or

(B) A purchase of the stock of one corporation by another corporation would be treated as a distribution in redemption of the stock of the first corporation under section 304(a)(2) (determined without regard to § 1.1502–80(b)).

(ii) *Special rules.* The following rules apply solely for purposes of this paragraph (e)(3):

(A) A corporation will be treated as related to another corporation if such relationship exists immediately before or immediately after the acquisition of the stock involved.

(B) A corporation, other than the target corporation or a person related (as defined in paragraph (e)(3) of this section determined without regard to paragraph (e)(3)(i)(A) of this section) to the target corporation, will be treated as related to the issuing corporation if the relationship is created in connection with the potential reorganization.

(4) *Acquisitions by partnerships.* For purposes of this paragraph (e), each partner of a partnership will be treated as owning or acquiring any stock owned or acquired, as the case may be, by the partnership in accordance with that partner's interest in the partnership. If a partner is treated as acquiring any stock by reason of the application of this paragraph (e)(4), the partner is also treated as having furnished its share of any consideration furnished by the partnership to acquire the stock in accordance with that partner's interest in the partnership.

(5) *Successors and predecessors.* For purposes of this paragraph (e), any reference to the issuing corporation or the target corporation includes a reference to any successor or predecessor of such corporation, except that the target corporation is not treated as a predecessor of the issuing corporation and the issuing corporation is not treated as a successor of the target corporation.

(6) *Examples.* For purposes of the examples in this paragraph (e)(6), P is the issuing corporation, T is the target corporation, S is a wholly owned subsidiary of P, all corporations have only one class of stock outstanding, A and B are individuals, PRS is a partnership, all reorganization requirements other than the continuity of interest requirement are satisfied, and the transaction is not otherwise subject to recharacterization. The following examples illustrate the application of this paragraph (e):

Example 1. Sale of stock to third party. (i) *Sale of issuing corporation stock after merger.* A owns all of the stock of T. T merges into P. In the merger, A receives P stock having a fair market value of $50x and cash of $50x. Immediately after the merger, and pursuant to a preexisting binding contract, A sells all of the P stock received by A in the merger to B. Assume that there are no facts and circumstances indicating that the cash used by B to purchase A's P stock was in substance exchanged by P for T stock. Under paragraphs (e)(1) and (2) of this section, the sale to B is disregarded because B is not a person related to P within the meaning of paragraph (e)(3) of this section. Thus, the transaction satisfies the continuity of interest requirement because 50 percent of A's T stock was exchanged for P stock, preserving a substantial part of the value of the proprietary interest in T.

(ii) *Sale of target corporation stock before merger.* The facts are the same as paragraph (i) of this *Example 1*, except that B buys A's T stock prior to the merger of T into P and then exchanges the T stock for P stock having a fair market value of $50x and cash of $50x. The sale by A is disregarded. The continuity of interest requirement is satisfied because B's T stock was exchanged for P stock, preserving a substantial part of the value of the proprietary interest in T.

Example 2. Relationship created in connection with potential reorganization. A owns all of the stock of T. X, a corporation which owns 60 percent of the P stock and none of the T stock, buys A's T stock for cash prior to the merger of T into P. X exchanges the T stock solely for P stock in the merger which, when combined with X's prior ownership of P stock, constitutes 80 percent of the stock of P. X is a person related to P under paragraphs (e)(3)(i)(A) and (ii)(B) of this section, because X becomes affiliated with P in the merger. The continuity of interest requirement is not satisfied, because X acquired a proprietary interest in T for consideration other than P stock, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(2) of this section.

Example 3. Participation by issuing corporation in post-merger sale. A owns 80 percent of the T stock and none of the P stock, which is widely held. T merges into P. In the merger, A receives P stock. In addition, A obtains rights pursuant to an arrangement with P to have P register the P stock under the Securities Act of 1933, as amended. P registers A's stock, and A sells the stock shortly after the merger. No person who purchased the P stock from A is a person related to P within the meaning of paragraph (e)(3) of this section. Under paragraphs (e)(1) and (2) of this section, the sale of the P stock by A is disregarded because no person who purchased the P stock from A is a person related to P within the meaning of paragraph (e)(3) of this section. The transaction satisfies the continuity of interest requirement because A's T stock was exchanged for P stock, preserving a substantial part of the value of the proprietary interest in T.

Example 4. Redemptions and purchases by issuing corporation or related persons. (i) *Redemption by issuing corporation.* A owns 100 percent of the stock of T and none of the stock of P. T merges into S. In the merger, A receives P stock. In connection with the merger, P redeems all of the P stock received by A in the merger for cash. The continuity of interest requirement is not satisfied, because, in connection with the merger, P redeemed the stock exchanged for a proprietary interest in T, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(1) of this section.

(ii) *Purchase of target corporation stock by issuing corporation.* The facts are the same as paragraph (i) of this *Example 4*, except that, instead of P redeeming its stock, prior to and in connection with the merger of T into S, P purchases 90 percent of the T stock from A for cash. The continuity of interest requirement is not satisfied, because in connection with the merger, P acquired a proprietary interest in T for consideration other than P stock, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(1) of this section. However, see § 1.338–2(c)(3) (which may change the result in this case by providing that, by virtue of section 338, continuity of interest is satisfied for certain parties after a qualified stock purchase).

(iii) *Purchase of issuing corporation stock by person related to issuing corporation.* The facts are the same as paragraph (i) of this *Example 4*, except that, instead of P redeeming its stock, S buys all of the P stock received by A in the merger for cash. S is a person related to P under paragraphs (e)(3)(i)(A) and (B) of this section. The continuity of interest requirement is not satisfied, because S acquired P stock issued in the merger, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(2) of this section.

Example 5. Redemption in substance by issuing corporation. A owns 100 percent of the stock of T and none of the stock of P. T merges into P. In the merger, A receives P stock. In connection with the merger, B buys all of the P stock received by A in the merger for cash. Shortly thereafter, in connection with the merger, P redeems the stock held by B for cash. Based on all the facts and circumstances, P in substance has exchanged solely cash for T stock in the merger. The continuity of interest requirement is not satisfied, because in substance P redeemed the stock exchanged for a proprietary interest in T, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(1) of this section.

Example 6. Purchase of issuing corporation stock through partnership. A owns 100 percent of the stock of T and none of the stock of P. S is an 85 percent partner in PRS. The other 15 percent of PRS is owned by unrelated persons. T merges into P. In the merger, A receives P stock. In connection with the merger, PRS purchases all of the P stock received by A in the merger for cash. Under paragraph (e)(4) of this section, S, as an 85 percent partner of PRS, is treated as having acquired 85 percent of the P stock exchanged for A's T stock in the merger, and as having furnished 85 percent of the cash paid by PRS to acquire the P stock. S is a person related to P under paragraphs

(e)(3)(i)(A) and (B) of this section. The continuity of interest requirement is not satisfied, because S is treated as acquiring 85 percent of the P stock issued in the merger, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(2) of this section.

Example 7. Exchange by acquiring corporation for direct interest. A owns 30 percent of the stock of T. P owns 70 percent of the stock of T, which was not acquired by P in connection with the acquisition of T's assets. T merges into P. A receives cash in the merger. The continuity of interest requirement is satisfied, because P's 70 percent proprietary interest in T is exchanged by P for a direct interest in the assets of the target corporation enterprise.

Example 8. Effect of general stock repurchase program. T merges into P, a corporation whose stock is widely held and publicly traded and that has one class of common stock outstanding. In the merger, T shareholders receive common stock of P. Immediately after the merger, P repurchases a small percentage of its common stock in the open market as part of its ongoing stock repurchase program. The repurchase program was not created or modified in connection with the acquisition of T. Continuity of interest is satisfied, because based on all of the facts and circumstances, the redemption of a small percentage of the P stock does not affect the T shareholders' proprietary interest in T, because it was not in connection with the merger, and the value of the proprietary interest in T is preserved. See paragraph (e)(1) of this section.

Example 9. Maintenance of direct or indirect interest in issuing corporation. X, a corporation, owns all of the stock of each of corporations P and Z. Z owns all of the stock of T. T merges into P. Z receives P stock in the merger. Immediately thereafter and in connection with the merger, Z distributes the P stock received in the merger to X. X is a person related to P under paragraph (e)(3)(i)(A) of this section. The continuity of interest requirement is satisfied, because X was an indirect owner of T prior to the merger who maintains a direct or indirect proprietary interest in P, preserving a substantial part of the value of the proprietary interest in T. See paragraph (e)(2) of this section.

(7) *Effective date.* This paragraph (e) applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

Par. 4. Section 1.368–2 is amended by:

1. Removing the second sentence of paragraph (a) and adding two sentences in its place.
2. Removing the second sentence of paragraph (f) and adding four sentences in its place.
3. Removing the second sentence in paragraph (j)(1).
4. Revising paragraph (j)(3)(ii).
5. Revising the first sentence in paragraph (j)(3)(iii).
6. Adding paragraph (j)(3)(iv).
7. Removing paragraph (j)(4).
8. Redesignating paragraphs (j)(5), (j)(6), and (j)(7) as (j)(4), (j)(5), and (j)(6), respectively.
9. Removing the parentheses around the numbers in the paragraph headings for *Example (1)* through *Example (9)* in newly designated paragraph (j)(6).
10. Adding paragraph (k).

The additions and revisions read as follows:

§ 1.368–2 Definition of terms.

(a) * * * The term does not embrace the mere purchase by one corporation of the properties of another corporation. The preceding sentence applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. * * *

* * * * *

(f) * * * If a transaction otherwise qualifies as a reorganization, a corporation remains a party to the reorganization even though stock or assets acquired in the reorganization are transferred in a transaction described in paragraph (k) of this section. If a transaction otherwise qualifies as a reorganization, a corporation shall not cease to be a party to the reorganization solely by reason of the fact that part or all of the assets acquired in the reorganization are transferred to a partnership in which the transferor is a partner if the continuity of business enterprise requirement is satisfied. See § 1.368–1(d). The preceding three sentences apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter. * * *

* * * * *

(j) * * *

(3) * * *

(ii) Except as provided in paragraph (k)(2) of this section, the controlling corporation must control the surviving corporation immediately after the transaction.

(iii) After the transaction, except as provided in paragraph (k)(2) of this section, the surviving corporation must hold substantially all of its own properties and substantially all of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction). * * *

(iv) Paragraphs (j)(3)(ii) and (iii) of this section apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

* * * * *

(k) *Transfer of assets or stock in section 368(a)(1)(A), (B), (C), or (G) reorganizations*—(1) *General rule for transfers to controlled corporations.* Except as otherwise provided in this section, a transaction otherwise qualifying under section 368(a)(1)(A), (B), (C), or (G) (where the requirements of sections 354(b)(1)(A) and (B) are met) shall not be disqualified by reason of the fact that part or all of the acquired assets or stock acquired in the transaction are transferred or successively transferred to one or more corporations controlled in each transfer by the transferor corporation. Control is defined under section 368(c).

(2) *Transfers following a reverse triangular merger.* A transaction qualifying under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E) is not disqualified by reason of the fact that part or all of the stock of the surviving corporation is transferred or successively transferred to one or more corporations controlled in each transfer by the transferor corporation, or because part or all of the assets of the surviving corporation or the merged corporation are transferred or successively transferred to one or more corporations controlled in each transfer by the transferor corporation.

(3) *Examples.* The following examples illustrate the application of this paragraph (k). P is the issuing corporation and T is the target corporation. P has only one class of stock outstanding. The examples are as follows:

Example 1. Transfers of acquired assets to controlled corporations. (i) *Facts.* T operates a bakery which supplies delectable pastries and cookies to local retail stores. The acquiring corporate group produces a variety of baked goods for nationwide distribution. P owns 80 percent of the stock of S–1. Pursuant to a plan of reorganization, T transfers all of its assets to S–1 solely in exchange for P stock, which T distributes to its shareholders. S–1 owns 80 percent of the stock of S–2; S–2 owns 80 percent of the stock of S–3, which also makes and supplies pastries and cookies. Pursuant to the plan of reorganization, S–1 transfers the T assets to S–2; S–2 transfers the T assets to S–3.

(ii) *Analysis.* Under this paragraph (k), the transaction, otherwise qualifying as a reorganization under section 368(a)(1)(C), is not disqualified by reason of the fact of the successive transfers of all of the acquired assets from S–1 to S–2, and from S–2 to S–3 because in each transfer, the transferee corporation is controlled by the transferor

corporation. Control is defined under section 368(c).

Example 2. Transfers of acquired stock to controlled corporations. (i) *Facts.* The facts are the same as Example 1 except that S–1 acquires all of the T stock rather than the T assets, and as part of the plan of reorganization, S–1 transfers all of the T stock to S–2, and S–2 transfers all of the T stock to S–3.

(ii) *Analysis.* Under this paragraph (k), the transaction, otherwise qualifying as a reorganization under section 368(a)(1)(B), is not disqualified by reason of the fact of the successive transfers of all of the acquired stock from S–1 to S–2, and from S–2 to S–3 because in each transfer, the transferee corporation is controlled by the transferor corporation.

Example 3. Transfers of acquired stock to partnerships. (i) *Facts.* The facts are the same as in Example 2. However, as part of the plan of reorganization, S–2 and S–3 form a new partnership, PRS. Immediately thereafter, S–3 transfers all of the T stock to PRS in exchange for an 80 percent partnership interest, and S–2 transfers cash to PRS in exchange for a 20 percent partnership interest.

(ii) *Analysis.* This paragraph (k) describes the successive transfer of the T stock to S–3, but does not describe S–3's transfer of the T stock to PRS. Therefore, the characterization of this transaction must be determined under the relevant provisions of law, including the step transaction doctrine. See § 1.368–1(a). The transaction fails to meet the control requirement of a reorganization described in section 368(a)(1)(B) because immediately after the acquisition of the T stock, the acquiring corporation does not have control of T.

(4) This paragraph (k) applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is binding on January 28, 1998, and at all times thereafter.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: January 12, 1998.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8761]

RIN 1545–AV80

Continuity of Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations providing guidance regarding satisfaction of the continuity of interest requirement for corporate reorganizations. The temporary regulations affect corporations and their shareholders. Final regulations published elsewhere in this issue of the **Federal Register** also provide guidance regarding satisfaction of the continuity of interest requirement for corporate reorganizations. These temporary regulations amplify the final regulations. The text of these temporary regulations also serves as the text of proposed regulations published elsewhere in this issue of the **Federal Register**.

DATES: These regulations are effective January 28, 1998.

Applicability: These regulations apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

FOR FURTHER INFORMATION CONTACT: Phoebe Bennett, (202) 622–7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION: This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 368. These temporary regulations provide that, in determining whether the continuity of interest requirement for corporate reorganizations is satisfied with respect to a potential reorganization, a proprietary interest in the target corporation is not preserved if, in connection with a potential reorganization, it is redeemed or acquired by a person related to the target corporation, or to the extent that, prior to and in connection with a potential reorganization, an extraordinary distribution is made with respect to it.

Background

On December 23, 1996, the IRS published a notice of proposed rulemaking (REG–252231–96) in the **Federal Register** (61 FR 67512) relating to the continuity of interest requirement. Many written comments were received in response to this notice of proposed rulemaking. A public hearing on the proposed regulations was held on May 7, 1997. After consideration of all comments, the regulations proposed by REG–252231–96 are adopted as final regulations, and published elsewhere in this issue of the **Federal Register**. These temporary regulations supplement the final regulations.

Explanation of Provisions

Final regulations published elsewhere in this issue of the **Federal Register** provide that in determining whether the continuity of interest (COI) requirement for corporate reorganizations is satisfied, dispositions of stock of the target corporation (T) by a T shareholder generally are not taken into account.

Redemptions of T Stock or Extraordinary Distributions With Respect to T Stock

Commentators requested guidance on the circumstances under which a redemption by T of its stock would adversely affect satisfaction of the COI requirement.

Some commentators suggested that the IRS and Treasury Department adopt an approach that would identify either the issuing corporation (P) or T as the source of the funds for the redemption. If, in connection with an acquisition of T, the facts and circumstances indicate that P did not directly or indirectly furnish funds used by T to redeem T shareholders, these commentators suggested that satisfaction of the COI requirement should not be adversely affected. In many transactions, however, such a tracing approach would be extremely difficult to administer. For example, if P acquired the assets, rather than the stock, of T or if T redeemed stock for a note, it would be unclear in many circumstances whether in substance T or P assets were used to fund the redemption or to repay the note.

Another commentator suggested that redemptions by T in connection with a potential reorganization should adversely affect satisfaction of the COI requirement because the effect on COI is the same as if P had furnished the redemption consideration in the transaction. The temporary regulations generally adopt this approach because it reflects that T and P will be combined economically and because of the difficulties of administering a tracing approach, as previously described.

Treatment of stock redeemed by T as proprietary interests that are not preserved in the reorganization also accords the same tax result to transactions that reach the same result by different steps. For example, T could merge into P for a combination of consideration, of which 30 percent is P stock and 70 percent is a P promissory note. Conversely, T could issue its promissory note to redeem 70 percent of the T stock and then P would assume the T note in the merger, in which the

remaining T shareholders receive solely P stock. From the perspective of P, T, and the T shareholders, these two transactions are substantively identical, and the COI requirement is not satisfied in the first transaction. The temporary regulations provide that the second transaction likewise does not satisfy the COI requirement.

In addition, this approach corresponds with the rule of the final regulations that a proprietary interest in T is not preserved if, in connection with the potential reorganization, P stock furnished in exchange for a proprietary interest in T in the potential reorganization is redeemed. Because the final regulations do not inquire, in the case of a subsequent P redemption, whether the source of consideration furnished in the redemption was former T assets or historic P assets, the temporary regulations similarly do not make an inquiry in the case of a prior T redemption. Instead, for purposes of the COI requirement, the temporary regulations treat T and P as a combined economic enterprise. In an asset acquisition, this approach avoids the difficult process of identifying the source of payments as between T and P.

Commentators have suggested that this approach is inconsistent with authorities which hold that redemptions of stock of the target corporation with assets of the target corporation do not violate the solely-for-voting-stock requirement applicable to section 368(a)(1)(B) reorganizations. See, e.g., Rev. Rul. 55–440 (1955–2 C.B. 226). None of these authorities address the effect on continuity of interest of such redemptions. For the reasons stated above, the temporary regulations take such redemptions into account for continuity purposes.

The temporary regulations provide that a proprietary interest in T is not preserved if, in connection with a potential reorganization, it is redeemed or to the extent that, prior to and in connection with a potential reorganization, an extraordinary distribution is made with respect to it. An extraordinary distribution with respect to T stock, followed by a sale of the remaining T stock to P, has the same effect on the value of the proprietary interest in T as a pro rata redemption by T followed by a sale of the outstanding T stock to P.

The temporary regulations do not provide guidance on the determination of whether a distribution will be treated as an extraordinary distribution, except that the rules of section 1059 do not apply for this purpose. The IRS and Treasury Department invite comments on whether the regulations should provide more specific guidance in this area.

A section 355 distribution of controlled corporation stock by T will preserve a proprietary interest in T, except to the extent that the T shareholders receive other property or money to which section 356(a) applies or the distribution is extraordinary in amount and is a distribution of property or money to which section 356(b) applies.

Related Person Rule

In determining whether the COI requirement is satisfied, dispositions of T stock to persons that are not related to T or P are disregarded. The final regulations provide that a proprietary interest in T is not preserved if, in connection with a potential reorganization, a person related to P acquires, with consideration other than a proprietary interest in P, T stock or P stock furnished in exchange for a proprietary interest in T in the potential reorganization. Consistent with the final regulations, the temporary regulations provide that a proprietary interest in T is not preserved if, prior to and in connection with a potential reorganization, a person related to T acquires T stock with consideration other than T stock or P stock.

Definition of Related Person of T

The final regulations include as related persons any corporation that is a member of the affiliated group, within the meaning of section 1504, of which P is a member, and any corporation whose purchase of P stock would be treated as a redemption of that stock under section 304(a)(2). The section 1504 test was adopted because the IRS and Treasury Department were concerned that acquisitions of T stock or P stock by P affiliated corporations were no different in substance than acquisitions or redemptions by P. This concern does not generally extend to members of T's affiliated group that are not also considered related to T under section 304(a)(2) because such corporations are T shareholders participating in the potential reorganization along with the other shareholders of the target corporation. The temporary regulations treat two corporations as related persons if a purchase of the stock of one corporation by another corporation would be treated as a distribution in redemption of the stock of the first corporation under section 304(a)(2) (determined without regard to § 1.1502–80(b)).

Effect on Other Authorities

These COI regulations apply solely for purposes of determining whether the COI requirement is satisfied. No inference should be drawn from any provision of this regulation as to whether other reorganization requirements are satisfied, or as to the characterization of a related transaction. See, e.g., § 1.301–1(l).

Effect on Other Documents

Rev. Proc. 77–37 (1977–2 C.B. 568) and Rev. Proc. 86–42 (1986–2 C.B. 722) will be modified to the extent inconsistent with these temporary regulations.

Effective Date

These regulations apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

Special Analyses

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

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.368–1T is added to read as follows:

§ 1.368–1T Purpose and scope of exception of reorganization exchanges (temporary).

(a) through (e)(1)(i) [Reserved] For further guidance see § 1.368–1(a) through (e)(1)(i).

(e)(1)(ii)(A) *General rule.* A proprietary interest in the target corporation (other than one held by the acquiring corporation) is not preserved if, prior to and in connection with a potential reorganization, it is redeemed or to the extent that, prior to and in connection with a potential reorganization, an extraordinary distribution is made with respect to it. The determination of whether a distribution with respect to stock of the target corporation is an extraordinary distribution for purposes of this paragraph (e)(1)(ii) will be made on the basis of all of the facts and circumstances, but the treatment of the distribution under section 1059 (relating to extraordinary dividends) will not be taken into account.

(B) *Exception.* Paragraph (e)(1)(ii)(A) of this section does not apply to a distribution of stock by the target corporation to which section 355(a) (or so much of section 356 as relates to section 355) applies, except to the extent that—

(*1*) The target corporation shareholders receive other property or money to which section 356(a) applies; or

(*2*) The distribution is extraordinary in amount and is a distribution of property or money to which section 356(b) applies.

(2)(i) [Reserved] For further guidance, see § 1.368–1(e)(2)(i).

(ii) A proprietary interest in the target corporation is not preserved if, prior to and in connection with a potential reorganization, a person related (as defined in § 1.368–1(e)(3) determined without regard to § 1.368–1(e)(3)(i)(A)) to the target corporation acquires stock of the target corporation, with consideration other than stock of either the target corporation or the issuing corporation.

(e)(3) through (e)(6) *Example 9.* [Reserved] For further guidance, see § 1.368–1(e)(3) through (e)(6) *Example 9.*

(e)(6) *Example 10. Acquisition of target corporation stock before merger.* (i) *Redemption by target corporation.* A owns 85 percent and B owns 15 percent of the stock of T. The fair market value of T is $100x. Neither A nor B own stock of P. Prior to and in connection with the merger of T into P, T redeems A's T stock for $85x and issues to A its promissory note in exchange for the stock. At the time of the merger T has a value of $15x, after giving effect to the redemption of its stock. In the merger, B receives solely P stock. The continuity of interest requirement is not satisfied because T redeemed A's stock, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(1)(ii)(A) of this section.

(ii) *Purchase by person related to target corporation.* The facts are the same as paragraph (i) of this *Example 10,* except that X, T's wholly owned subsidiary, acquires A's T stock prior to and in connection with the merger for cash of $85x. Under paragraph (e)(2)(ii) of this section and § 1.368–1(e)(3)(i)(B), X's acquisition of A's T stock is an acquisition by a related person. The continuity of interest requirement is not satisfied, because X acquired T stock, for consideration other than P stock, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(2)(ii) of this section.

Example 11. Extraordinary distribution before merger. A owns all of the stock of T. The fair market value of T is $100x. Prior to and in connection with the merger of T into P, T pays A an extraordinary distribution of an $85x note. T merges into P, and A receives solely P stock. P assumes T's obligation on the note. The continuity of interest requirement is not satisfied, because T paid A an extraordinary distribution, and a substantial part of the value of the proprietary interest in T is not preserved. See paragraph (e)(1)(ii)(A) of this section.

(f) *Effective date.* This section applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: January 12, 1998.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 98–1818 Filed 1–23–98; 12:15 pm]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (Department of the Treasury Circular, Public Debt Series No. 1–93)

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Treasury'' or ''Department'') is issuing in final form an amendment to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This final rule incorporates a change in the timeframe for certain restrictions pertaining to bidders that bid noncompetitively in Treasury auctions. The amendment states that between the date of the offering announcement and the time of the official announcement by the Department of the auction results, a noncompetitive bidder may not hold, at any time, a position for its own account in when-issued trading or in futures or forward contracts in the security being auctioned or enter into any agreement to purchase or sell or otherwise dispose of the securities it is acquiring in the auction.

EFFECTIVE DATE: January 28, 1998.

ADDRESSES: This final rule is available for downloading from the Bureau of the Public Debt's Internet site at the following address: www.publicdebt.treas.gov. It is also available for public inspection and copying at the Treasury Department Library, FOIA Collection, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C., 20220. Persons wishing to visit the library should call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Kerry Lanham (Acting Director) or Lee Grandy (Government Securities Specialist), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 219–3632.

SUPPLEMENTARY INFORMATION: 31 CFR Part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department of the Treasury to the public of marketable Treasury bills, notes, and bonds. The uniform offering circular, in conjunction with offering announcements, represents a comprehensive statement of those terms

and conditions.[1] This final rule amends paragraph 356.12(b)(2), ''Additional restrictions,'' and is applicable to bidders bidding noncompetitively for their own account in Treasury security auctions.

The current rule under paragraph 356.12(b)(2) provides that a bidder may not bid noncompetitively for its own account if, in the security being auctioned, it holds or has held a position in when-issued trading or in futures or forward contracts at any time between the date of the offering announcement and the designated closing time for the receipt of competitive tenders in the auction. Further, the paragraph provides that prior to the designated closing time for receipt of competitive bids a noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the securities it is acquiring in the auction.

The noncompetitive bidding option's objective is to achieve a broader distribution of Treasury securities by allowing relatively small investors, who may not have current market information, to participate successfully in Treasury auctions by providing assurance that they can obtain a limited amount of securities without competition. As stated in the January 1992 *Joint Report on the Government Securities Market* (''Joint Report''), noncompetitive bidding allows the small investor to purchase securities at a current market yield by eliminating the risk that a prospective investor might bid a yield that is too high and not obtain the securities desired or might bid a yield that is too low and pay too much for the securities.[2] The restriction on noncompetitive bidders under current paragraph 356.12(b)(2), which is discussed above, is directed at limiting the noncompetitive bidding option to small, less sophisticated bidders.

The noncompetitive bidding option is not intended to be used as a substitute for competitive bidding, which is available to all investors. The Joint Report referenced several instances of investors using noncompetitive awards for what appeared to be arbitrage purposes that went against the spirit of the noncompetitive award system.[3]

The Department has reexamined the situation where bidders bid noncompetitively for their own accounts in an auction and also enter into positions in the security being auctioned in the when-issued, futures, or forward markets, and has determined that further tightening of the noncompetitive bidding restriction is necessary. The Department views a bidder in an auction who enters into a position in the when-issued or futures or forward markets in the same security being auctioned, prior to the time of Treasury's announcement of the auction results as a sophisticated bidder who should be bidding competitively, not noncompetitively.

Accordingly, paragraph 356.12(b)(2) of the uniform offering circular is amended to state that between the date of the offering announcement and the time of the official announcement by the Department of the auction results, a noncompetitive bidder may not hold, at any time, a position for its own account in when-issued trading or in futures or forward contracts in the security being auctioned or enter into any agreement to purchase or sell or otherwise dispose of the securities it is acquiring in the auction. The amended paragraph now also states that, for purposes of this paragraph, futures contracts include those: (i) that require delivery of the specific security being auctioned; (ii) for which the security being auctioned is one of several securities that may be delivered; or (iii) that are cash-settled.

The Department notes that for the purposes of amended paragraph 356.12(b)(2), the meaning of ''futures contracts'' is different, and significantly broader, than it is for the net long position calculation purposes pursuant to paragraph 356.13(b) of this part. For net long position reporting purposes, ''futures contracts'' encompass only those contracts that require delivery of the specific security being auctioned. The different meanings of ''futures contracts'' in paragraphs 356.12(b) and 356.13(b) reflect the different objectives of the two provisions. The net long position reporting requirement in section 356.13 is used to enforce Treasury's policy that no bidder in an auction of a particular security will have acquired more than 35 percent of the amount awarded to the public and, accordingly, the focus is on control of the specific security being auctioned. This results in a narrower approach by excluding futures contracts that are cash-settled and those requiring delivery of securities other than the specific security being auctioned, since these two types of contracts do not constitute control of the specific security being auctioned. In contrast, the restrictions on noncompetitive bidders at paragraph 356.12(b)(2) are intended to limit the noncompetitive bidding option to small, less sophisticated bidders, and therefore, the restrictions encompass a broader range of positions in futures contracts.

The modifications to paragraph 356.12(b)(2) extend the applicable deadline for this noncompetitive bidding restriction to the time of the announcement of the auction results, which is later than the designated closing time for receipt of competitive tenders in an auction. After the conclusion of an auction, the Department makes an official announcement of the auction results through a press release. Once Treasury announces the auction results, the various electronic financial wire services (e.g., Dow Jones, Reuters, Bloomberg, Bridge News, Associated Press) quickly disseminate this information, as do other major news and financial publications. Thus, a noncompetitive bidder that wants to know if the auction results have been announced can check for the results over various electronic wire services. Once the official announcement by the Department of the auction results is released, noncompetitive bidders in that particular auction may enter into positions in when-issued trading or in futures or forward contracts for the security just auctioned or may enter into agreements to purchase or sell or otherwise dispose of the securities acquired in the auction.

The Department also notes that paragraph 356.15(b) of the uniform offering circular, which sets out the terms of bidding through investment advisers, provides that regardless of whether the bid for a controlled account is in the name of the investment adviser or in the name of the controlled account, the account is subject to the noncompetitive bidding restrictions contained in paragraph 356.12(b). This means that the changes contained in this amendment to the uniform offering circular apply to bidders in an auction that are bidding noncompetitively through an investment adviser, as well as all other noncompetitive bidders in the auction.

Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action'' pursuant to Executive Order 12866.

Because this rule relates to public contracts and procedures for United States securities, the notice, public comment, and delayed effective date

[1] The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356.

[2] Department of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, *Joint Report on the Government Securities Market*, (January 1992), p. A–2.

[3] *See supra* note 2, at p. B–50.

provisions of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There is no new collection of information contained in this final rule, and, therefore, the Paperwork Reduction Act does not apply. The collections of information of 31 CFR Part 356 have been previously approved by the Office of Management and Budget under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under control number 1535–0112. Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

For the reasons set forth in the preamble, 31 CFR chapter II, subchapter B, part 356, is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

2. Section 356.12 is amended by revising paragraph (b)(2) to read as follows:

§ 356.12 Noncompetitive and competitive bidding.

* * * * *

(b) * * *

(2) *Additional restrictions.* Between the date of the offering announcement and the time of the official announcement by the Department of the auction results, a noncompetitive bidder may not hold, at any time, a position for its own account in when-issued trading or in futures or forward contracts in the security being auctioned or enter into any agreement to purchase or sell or otherwise dispose of the securities it is acquiring in the auction. For purposes of this paragraph, futures contracts include those:

(i) That require delivery of the specific security being auctioned;

(ii) For which the security being auctioned is one of several securities that may be delivered; or

(iii) That are cash-settled.

* * * * *

Dated: January 21, 1998.

Donald V. Hammond,

Acting Fiscal Assistant Secretary.

[FR Doc. 98–1958 Filed 1–27–98; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 215

Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities

AGENCY: Forest Service, USDA.

ACTION: Interim final rule; request for comment.

SUMMARY: The Department is amending the rules governing who can participate in administrative appeals of decisions authorizing National Forest System projects and activities, by removing a prohibition on appeals by Forest Service employees. This regulatory change results from a reassessment of this provision in response to a recent legal challenge. Public comment is invited on this interim rule and will be considered in promulgating a final rule.

DATES: This interim rule is effective January 28, 1998. Comments on this rulemaking must be received by March 30, 1998.

ADDRESSES: Written comments on this rule must be sent to Susan Yonts-Shepard, Appeals Coordinator, National Forest Systems Deputy Area, MAIL STOP 1106, Forest Service, USDA P.O. Box 96090, Washington, DC 20090–9060. All comments, including names and addresses, when provided, will be placed in the record and are made available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Susan Yonts-Shepard, Forest Service, telephone, (202) 202–1519.

SUPPLEMENTARY INFORMATION:

Background

Section 322 of the 1993 Interior and Related Agencies Appropriations Act directed the Department to establish a process by which persons or organizations receive notice and the opportunity to comment on proposed actions affecting the National Forest System. The Act also required the establishment of procedures by which persons or organizations may appeal decisions subsequently made on proposed actions. Following the publication of a proposed rule with a request for public comment (58 FR 19369), the Forest Service received over 9,000 comments on certain aspects of this rulemaking. However, no comment was submitted on the proposed provision prohibiting agency employees from participating in the appeal process as appellants or as interested parties at § 215.11(c). Having concluded that there was no concern with this provision, the Department adopted paragraph (c) in § 215.11, without change from the proposed rule, November 4, 1993 (58 FR 58904).

A recent lawsuit brought by a Forest Service employee challenging this regulation *(Dalton* v. *Forest Service*, Civil Act Number 97–0774, U.S.D.C., D.D.C.) has led to a reassessment of the employee appeal limitation in 36 CFR 215.11(c) and has raised issues not considered at the time of the earlier rulemaking. Moreover, the rulemaking record does not speak directly to the § 215.11(c) provision. Therefore, the Deputy Under Secretary, in a declaration to the court, indicated that the Department would cease immediately to enforce the employee appeal prohibition and would repeal the employee prohibition provision at § 215.11(c). The declaration also indicated that, at a later date, after additional consideration of relevant factors, the Forest Service may decide to publish a new proposed rule to address the matter of appeals by employees. If so, public comment would be requested at that time.

Employees appealing a National Forest System project may violate 18 U.S.C. 208 if their appeal is based upon an imputed financial interest and their official duties involve the appeal. Also, representation of others in the appeal process may be prohibited under 18 U.S.C. 203 and 205. Assuming that an employee appealing a National Forest System project would file the appeal as a private citizen, in accordance with Office of Government Ethics regulations at 5 CFR part 2635, subpart G, Misuse of position, the employee may not be on official duty or use government property or equipment in the preparation or transmittal of an appeal. Also, in preparing the appeal, the employee must not use official information not yet released to the public. A new paragraph (d) has been added to § 215.11 to address the standards of ethical conduct for employees filing an appeal.

Agencies are not required by the Administrative Procedure Act to give notice and opportunity to comment prior to adoption of this interim final rule because the decision to repeal § 215.11(c) involves a matter relating to

agency personnel and, thus, is exempt pursuant to 5 U.S.C. 553(a)(2). However, the Department believes the public should have an opportunity to comment on this rescission before it is adopted as a final rule. Among concerns and questions that reviewers may wish to consider are: the appropriateness and ethical implications of allowing employees to appeal certain Forest Service decisions; the potential impact of employee appeals on the process of permit administration; and the potential impact of allowing employee appeals on the delivery of goods and services from the National Forest System.

Regulatory Impact

This interim final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This action consists of administrative changes to regulations that would allow employee appeals of agency projects and activities under 36 CFR part 215. This interim final rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. Also, this rule will not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from this interim final rule. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this interim final rule is not subject to OMB review under Executive Order 12866.

Moreover, this interim final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

No Takings Implications

This interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally-protected private property. There are no Constitutionally-protected private property rights to be affected, since the regulation applies only to agency employees.

Civil Justice Reform Act

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim final rule (1) preempts all State and local laws and regulations that are in conflict or which would impede its full implementation, (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

This interim final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 215

Administrative practice and procedures, National forests.

Therefore, for the reasons set forth in the preamble, part 215 of Title 36 of the Code of Federal Regulations is amended, as follows:

PART 215—NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

1. The authority citation for part 215 continues to read as follows:

Authority: 16 U.S.C. 472, 551; sec. 322, Pub. L. 102–381, 106 Stat. 1419 (16 U.S.C. 1612 note).

§ 215.11 [Amended]

2. Amend § 215.11 to revise paragraph (c) and add a new paragraph (d) to read as follows:

§ 215.11 Who may participate in appeals.

* * * * *

(c) Federal agencies may not participate as appellants or interested parties.

(d) Federal employees filing appeals under this part shall comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees shall not be on official duty or use government property or equipment in the preparation or transmittal of an appeal. Employees also shall not use official information not yet released to the public.

Dated: January 22, 1998.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 98–2043 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH58–1a; FRL–5954–6]

Approval and Promulgation of State Implementation Plan; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving as a revision to the Ohio State Implementation Plan (SIP) a rate-of-progress plan for the purpose of reducing volatile organic compounds (VOC) emissions in the Ohio portion of the Cincinnati-Hamilton area by 15 percent by November 15, 1996. The plan and regulations will help to protect the public's health and welfare by reducing the VOC emissions that contribute to the formation of ground-level ozone, commonly known as urban smog. Elsewhere in this **Federal Register**, EPA is proposing approval and soliciting comment on this action; if written

adverse comments (not previously addressed) are received on the approval of the rate-of-progress plan, EPA will withdraw the direct final approval of the plan and address the comments received in a new final rule. Unless this direct final is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This rule is effective March 30, 1998 unless EPA receives adverse or critical comments by February 27, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: *Comments may be mailed to:* J. Elmer Bortzer, Chief, Regulation Development Section, Air and Radiation Division, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist at (312) 886–6058 and Francisco Acevedo, Environmental Protection Specialist at (312) 886–6061.

SUPPLEMENTARY INFORMATION:

I. Background on Rate-of-Progress and Contingency Plan Requirement

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (CAA); Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

Section 182(b)(1) of the Clean Air Act requires moderate and above ozone nonattainment areas to submit plans to reduce their VOC emissions by 15 percent by 1996. These plans are referred to as 15 percent rate of progress (15% ROP) plans. These plans were due to be submitted to the Environmental Protection Agency (EPA) by November 15, 1993. In Ohio, these plans were due for the Toledo, Dayton-Springfield, Cleveland-Akron-Lorain areas, and the Ohio portion of the Cincinnati-Hamilton Moderate ozone nonattainment area.

On November 12, 1993, Ohio submitted 15% plans for the Toledo, Dayton-Springfield, Cleveland-Akron-Lorain, and the Ohio portion of the Cincinnati-Hamilton areas. EPA reviewed these plans to determine if they satisfied the completeness criteria so that the rulemaking process could begin. On January 21, 1994, EPA notified Ohio that EPA was making a finding of incompleteness on the 15% ROP plan submittals and starting a clock for imposing sanctions in these areas. In order to stop this clock the State had to submit a complete 15% ROP plan for the State's moderate ozone nonattainment areas.

On March 14, 1994, OEPA Director Schregardus submitted Ohio's 15% ROP plans, along with several other State Implementation Plan revisions, to EPA. Only the 15% ROP plan for the Ohio portion of the Cincinnati-Hamilton area is subject to this approval. The requirements for a 15% ROP plan in the Toledo and Dayton-Springfield areas were no longer applicable after these areas were redesignated as ozone attainment areas, see 60 FR 39115 (dated August 1, 1995) and 60 FR 22289 (dated May 5, 1995). The 15% ROP plan requirement for the Cleveland-Akron-Lorain area was determined to be fulfilled since the area reached attainment and, therefore, no further emissions reductions were necessary to reach attainment of the ozone air quality standard. See 61 FR 20458 (dated May 7, 1996).

The 15% ROP plans submitted by OEPA on March 14, 1994, were found complete by EPA on August 8, 1994, in a letter to the State of Ohio. The completeness review of the plans is contained in an EPA memorandum dated May 12, 1994, a copy of which can be found in the docket.

II. Review Criteria

The requirements for a 15% ROP plan and its contents are found in Section 182(b)(1) of the CAA and the following EPA documents:

1. *Procedures for Preparing Emissions Projections*, EPA–450/4–91–019, July 1991.

2. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed rule (57 FR 13498), **Federal Register**, April 16, 1992.

3. ''November 15, 1992, Deliverables for RFP and modeling Emission Inventories,'' Memorandum from J. David Mobley, Edwin L. Meyer, and G. T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 7, 1992.

4. *Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans*, EPA–452/R–92–005, October 1992.

5. ''Quantification of Rule Effectiveness Improvements,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 1992.

6. *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate-of-Progress Plans*, EPA–452/R–93–002, March 1993.

7. ''Correction to 'Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans','' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 2, 1993.

8. ''15 Percent Rate-of-Progress Plans,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 16, 1993.

9. *Guidance on the Relationship Between the 15 Percent Rate-of-Progress Plans and Other Provisions of the Clean Air Act*, EPA–452/R–93–007, Environmental Protection Agency, May 1993.

10. ''Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures,'' G. T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, May 6, 1993.

11. *Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans*, EPA–452/R–93–005, Environmental Protection Agency, June 1993.

12. ''Correction Errata to the 15 Percent Rate-of-Progress Plan Guidance Series,'' G.T. Helms, Chief, Ozone and Carbon Monoxide Programs Branch, July 28, 1993.

13. ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 13, 1993.

14. ''Region III Questions on Emission Projections for the 15 Percent Rate-of-Progress Plans,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 17, 1993.

15. ''Guidance on Issues Related to 15 Percent Rate-of-Progress Plans,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, August 23, 1993.

16. ''Credit Toward the 15 Percent Requirements from Architectural and Industrial Maintenance Coatings,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, September 10, 1993.

17. ''Reclassification of Areas to Nonattainment and 15 Percent Rate-of-Progress Plans,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, September 20, 1993.

18. ''Clarification of 'Guidance for Growth Factors, Projections and Control Strategies for the 15 Percent Rate of Progress Plans','' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

19. ''Review and Rulemaking on 15 Percent Rate-of-Progress Plans,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

20. ''Questions and Answers from the 15 Percent Rate-of-Progress Plan Workshop,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, October 29, 1993.

21. ''Rate-of-Progress Plan Guidance on the 15 Percent Calculations,'' D. Kent Berry, Acting Director, Air Quality Management Division, October 29, 1993.

22. ''Clarification of Issues Regarding the Contingency Measures that are due November 15, 1993 for Moderate and Above Ozone Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 8, 1993.

23. ''Credit for 15 percent Rate-of-Progress Plan Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, December 9, 1993.

24. ''Guidance on Projection of Nonroad Inventories to Future Years,'' Memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, February 4, 1994.

25. ''Discussion at the Division Directors' Meeting on June 1 Concerning the 15 Percent and 3 Percent Calculations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, June 2, 1994.

26. ''Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards,'' Memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, November 28, 1994.

27. ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, November 29, 1994.

28. ''Transmittal of Rule Effectiveness Protocol for 1996 Demonstrations,'' Memorandum from Susan E. Bromm, Director, Chemical, Commercial Services and Municipal Division, Office of Compliance, Environmental Protection Agency, December 22, 1994.

29. ''Future Nonroad Emission Reduction Credits for Locomotives,'' Memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, January 3, 1995.

30. ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, March 22, 1995.

31. ''Fifteen Percent Rate-of-Progress Plans—Additional Guidance,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, May 5, 1995.

32. ''Update on the credit for the 15 percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial maintenance coatings rule,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, March 7, 1996.

33. ''Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from Inspection and Maintenance (I/M) and Guidance for Recalculation,'' memorandum from Margo Oge, Director, Office of Mobile Sources, and John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 13, 1996.

34. ''Modeling 15 Percent Volatile Organic Compound (VOC) Reduction(s) from I/M in 1999: Supplemental Guidance,'' memorandum from Gay MacGregor, Director, Regional and State Programs Division, and Sally Shaver, Director, Air Quality Strategies and Standards Division, Environmental Protection Agency, December 23, 1996.

35. ''15% Volatile Organic Compound (VOC) State Implementation Plan (SIP) Approvals and the 'As Soon As Practicable' Test,'' memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel, Division of Air and Radiation, Office of General Counsel, Environmental Protection Agency, February 12, 1997.

Section 182(b)(1) requires that the ROP plan provide for a 15 percent reduction in base line emissions of VOCs, accounting for any growth in emissions after 1990. Section 182(b)(1) also allows an area to reduce its emissions by a percentage less than 15 percent provided that (1) the State demonstrates that the area requires new source review provisions to the same extent as required in Extreme Areas, except that the definition of a major source is lowered to sources with a potential to emit 5 tons per day of VOCs; (2) Reasonably Available Control Technology (RACT) is required for all existing major stationary sources; and (3) the plan includes all measures that can feasibly be implemented in the area, in light of technological achievability. To qualify for a percentage less than 15 percent, a State must demonstrate to the satisfaction of the EPA that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.

The CAA also provides details on calculating the 15 percent emissions reduction. The CAA defines the base line emissions to be the total amount of actual VOC emissions from all anthropogenic sources in the area during the calendar year of 1990, excluding emissions that would be eliminated under any Federal Motor Vehicle Emissions Control Program (FMVECP) measures promulgated by EPA by January 1, 1990, and any Reid Vapor Pressure (RVP) regulations promulgated by EPA by November 15, 1990 or required to be promulgated under section 211 of the Act. This is further explained in EPA's General Preamble at 57 FR 13498.

Section 182(b)(1) allows emissions reductions to be creditable except for the RVP and FMVECP programs mentioned above, any measures requiring corrections to motor vehicle inspection and maintenance programs required to be submitted immediately after enactment, and corrections to the States VOC RACT rules that were required by section 182(a)(2)(A) concerning RACT fix-up requirements.

In general, emissions reductions are creditable toward the ROP emissions reduction to the extent they have actually occurred, as of 6 years after November 15, 1990, resulting from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit issued under Title V.

In addition, section 172(C)(9) requires that the plan provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the applicable attainment date. Such measures shall be included

in the plan revision as contingency measures.

III. Review of the 15% ROP Plan

EPA compared the State's submittal for consistency with the requirements of the CAA and Agency policy and guidance. A summary of this analysis is provided below.

A. Emission Inventory

Sections 172(c)(3) and 182(a)(1) of the Act require that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. This inventory provides an estimate of the amount of VOC, carbon monoxide and oxides of nitrogen produced by emissions sources such as automobiles, powerplants, and the use of consumer solvents in the household. On December 7, 1995, EPA approved Ohio's 1990 base year inventory for the Cincinnati-Hamilton area. For specific details of the final rulemaking, see 60 FR 62737. Therefore, the Cincinnati-Hamilton area has a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

The 1990 base year emissions inventory required by section 182(a) was submitted to EPA at the same time that the 15 percent ROP plan was submitted for the Cincinnati-Hamilton area, in March of 1994. The base year emissions inventory was later modified by the State based on EPA comments. The modified inventory resulted in a higher level of estimated VOC emissions in 1990. The State based its 15% ROP plan on its emissions inventory that was submitted in March of 1994. The State will not be required to revise the 15% ROP plan at this time to account for a revised 1990 base year level of VOC emissions. If the State were required to go back and adjust its 15% ROP plan whenever something changes in the base year emissions inventory, it would result in a moving emissions reduction target that the State would have to try to meet by continually adjusting the control measures being relied on. This would result in a significant delay in developing 15% ROP plans. This is not a reasonable expectation for areas that are required to prepare the 15% ROP plans, and, accordingly, EPA is not requiring that the State change its 15% ROP plan at this time.

B. Calculation of the Adjusted Base Year Inventory

The Act specifies the emission baseline from which the 15 percent reduction is calculated. This baseline value is termed the 1990 adjusted base year inventory. Section 182(b)(1)(D) excludes from the baseline the emissions that would be eliminated by FMVECP regulations promulgated by January 1, 1990, and RVP regulations (55 FR 23666, June 11, 1990) promulgated by EPA prior to November 15, 1990, which limit the volatility of gasoline in nonattainment areas during the peak ozone season. The FMVECP provides requirements that automobile manufacturers must meet in building new automobiles. These requirements result in automobiles being manufactured today that produce less pollution compared to cars manufactured years ago.

The adjusted base year inventory is determined by starting with the base year 1990 emission inventory (which is described under A. above), and then removing all biogenic emissions as well as emissions from sources located outside of the designated nonattainment boundary. The resulting inventory is termed the 1990 rate-of-progress base year inventory. The 1990 rate-of-progress base year inventory is then adjusted by removing the expected FMVECP and RVP reductions in order to derive the adjusted base year inventory. As specified by EPA's General Preamble, see 57 FR 13507, emission credits banked preenactment were not included in the emissions inventories.

Ohio used EPA's MOBILE5a emission factor model to calculate its adjusted base year inventory. The documentation includes actual 1990 motor vehicle emissions using 1990 vehicle miles traveled (VMT) and MOBILE5a emission factors, and the adjusted emissions using 1990 VMT and the MOBILE5a emission factors in calendar year 1996 with the appropriate RVP for the nonattainment area as required by EPA.

Provided in table 1 is a summary of the results of the emissions calculations used to determine the required 15 percent ROP plan reduction.

TABLE 1.—CALCULATIONS SUMMARY

Rate of progress summary for the Ohio portion of the Cincinnati-Hamilton area	
Calculation of reduction needs by 1996	VOC emissions (tons/day)
1990 Cincinnati-Hamilton VOC Emissions	383.40
1990 Rate-of-Progress Base Year Emissions Inventory (Anthropogenic Only)	273.51
Noncreditable Emission Reductions from FMVECP and RVP expected by 1996	58.57
1990 Adjusted Base Year Inventory (minus RVP and FMVECP)	214.94
15 percent of Adjusted Base Year Emissions	32.24
1990–1996 Noncreditable Emission Reductions from corrections to VOC RACT rules and the required Basic Automobile Inspection/Maintenance program	4.80
Total expected emissions reductions by 1996	95.61
1996 Target Level of Emissions	177.90
Estimated 1996 Emissions (Anthropogenic), including growth	225.89
REQUIRED REDUCTIONS BY 1996 TO MEET THE 15 PERCENT RATE OF PROGRESS REQUIREMENTS	47.99
Control Measures Used to Meet ROP	VOC emissions (tons/day)
Stage II Gasoline Vapor Recovery	4.29
Enhanced Automobile Inspection and Maintenance (E-Check)	18.80
NESHAP for reducing coke by product Benzene emissions	20.06
Enforcement Cases	0.85
Architectural Coatings	4.00
TOTAL EMISSIONS REDUCTIONS	48.00
CONTINGENCY EMISSIONS REDUCTION	7.01

C. Required VOC Emission Reductions

The 1990 adjusted base year inventory is multiplied by 0.15 to calculate 15% of the adjusted base year emissions. Therefore, to meet the rate-of-progress requirement, Ohio's plan must provide for at least a 32.24 tons per day (TPD) reduction in VOC emissions, in addition to the reduction needed to offset growth.

Under section 182(b)(1)(D) of the Act, the following reductions are not creditable toward the rate-of-progress reductions: (1) FMVECP regulations promulgated by January 1, 1990; (2) RVP regulations promulgated by EPA before enactment of the 1990 Clean Air Act amendments; (3) certain corrections to VOC RACT rules (which require controls on certain industrial operations); and (4) corrections to basic automobile inspection and maintenance programs. Thus, the total expected reductions are comprised of the reductions necessary to meet the ROP requirement and the expected emissions reductions from the four noncreditable programs just described. The total expected emissions reductions are 95.61 TPD.

The amount of reduction necessary to meet the contingency plan requirement is 3 percent of the adjusted base year inventory. Therefore, the adjusted base year inventory is multiplied by 0.03 to calculate the amount of required reduction for the contingency plan requirement. Therefore, to meet the contingency requirement, the State's plan must provide for at least a 6.45 TPD reduction in VOC emissions, in addition to the other emissions reduction measures. Ohio has documented the correct amount for the total expected reductions in the nonattainment area by showing each step used in the calculations. The 1996 target level of VOC emissions is the 1990 ROP base year inventory minus the total expected emission reductions.

D. Projected Emission Inventory

Emission projections for sources within an air basin are needed to determine if the rate-of-progress requirements in the Act are met and to determine if the area will attain the National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. The purpose of projecting the emission inventories into the future is not solely to predict what is likely to happen without additional controls, but also to gauge the ability of the regulations in the control strategy to meet the ROP goals.

Growth factors are not included in the calculations of the 1990 adjusted base year inventory or the 1996 target level of emissions. Growth factors are needed, however, to project emissions to 1996 for the ROP demonstration as part of the ROP plan.

The State calculated the point source emissions growth based on earnings data obtained from the Bureau of Economic Analysis. The point source growth factors ranged from a 4 percent decrease to a 5 percent increase per year. Area source emissions were projected based on population, industrial employment, and state gasoline consumption growth. The annual population growth factors for the four Ohio counties range from 0.1 percent to 1.6 percent. Industrial employment is projected to decrease by about 0.1 percent per year. The State gasoline consumption is estimated to decrease by about 8 percent from 1990 to 1996. The VMT were projected to grow from 25,671,581 miles per day in 1990 to 27,586,074 miles per day in 1996. This is a 7.46 percent increase in VMT over 6 years. These are acceptable growth estimates. Total estimated 1996 VOC emissions including growth was calculated as 225.89 TPD. Mobile source emissions account for 80.32 TPD of the total emissions.

E. Required Emissions Reduction

The required VOC emissions reduction to meet the 15% ROP requirements is 47.99 TPD. This is the difference between the estimated 1996 emissions with growth and no additional controls and the 1996 target level of emissions.

F. Control Measures

The revision submitted by the State lists a series of control measures projected to achieve a 48.0 TPD reduction in VOC emissions. See the table below for a list of the measures and their status. The table does not include any Federal measures used to reduce the mobile source emissions. These reductions are already accounted for in the MOBILE5a emissions model that in combination with the projected VMT for the area was used to estimate the future emissions for the area.

Enhanced I/M Program

Of the 15% ROP plans originally submitted to EPA, most contain enhanced I/M programs because they achieve more VOC emission reductions than most, if not all, other control strategies. However, because most States experienced substantial difficulties implementing enhanced I/M programs, only a few States are currently actually testing cars using the original enhanced I/M protocol.

On September 18, 1995 (60 FR 48029), EPA finalized revisions to its enhanced I/M rule allowing States significant flexibility in designing I/M programs appropriate for their needs. Further, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides States with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the final enhanced I/M rules and/or the guidance contained within the NHSDA, to secure State legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded States from obtaining emission reductions from enhanced I/M by November 15, 1996.

Given the heavy reliance by many States on enhanced I/M programs to help satisfy 15% ROP plan requirements, and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA has recognized that it is not possible for many States to achieve the portion of the 15% ROP reductions that are attributed to enhanced I/M by November 15, 1996. Under these circumstances, disapproval of the 15% ROP plan State Implementation Plans (SIPs) would serve no purpose. Consequently, under certain circumstances, EPA will allow States that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs in their 15% ROP plans, even though the emission reductions from the I/M program will occur after November 15, 1996.

Specifically, the EPA will approve 15% ROP SIPs if the emission reductions from the revised, enhanced I/M programs, as well as from the other 15% ROP plan measures, will achieve the 15% level as soon after November 15, 1996, as practicable. To make this ''as soon as practicable'' determination, the EPA must determine that the 15% ROP plan contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. The EPA does not believe that measures meaningfully accelerate the 15% date if they provide only a relatively small amount of reductions.

The Enhanced I/M program (E-Check) began operation in the Cincinnati-Hamilton area in January 1996. The program is a biennial testing program which requires two years of testing to complete one test cycle. The program will not achieve its full emissions reduction potential until the cycle is

complete. The 15% ROP plan anticipated that the program would start up in January 1995, but the program actually started in January 1996. The emissions reduction benefits of E-Check have been delayed beyond November 15, 1996.

Ohio implemented E-Check in the Cincinnati area in January 1996. In August 1996 vehicle testing was suspended due to technical and operational problems. On January 5, 1998, OEPA resumed the E-Check program in the Cincinnati area. EPA performed a modeling analysis to determine if the emission reduction credits claimed in the 15% plan from enhanced I/M would be achieved by November 1999.[1] EPA modeled the emission reductions from the program, with an enhanced I/M start date of January 1996, out to November 1999, as provided for in EPA policy. EPA subtracted emissions for the period of time the testing program was suspended (from August 1996 to December 1997). Other program characteristics modeled included actual I/M emission cutpoints in place at the time of evaluation, and projected 1996 vehicle miles traveled information for the Cincinnati area. EPA's analysis showed that the E-Check program would provide the necessary VOC emissions reductions for the 15% plan by November 1999.

To determine whether there are other available potential control measures which can meaningfully accelerate the date by which 15% emission reduction in the Cincinnati-Hamilton area can be achieved, EPA compared the area's 15% Rate of Progress (ROP) and contingency plans with control measures included in 15% ROP plans nation-wide, which are listed in EPA's report, ''Sample City Analysis: Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures,'' December 12, 1996, referenced in EPA's policy document ''15% VOC SIP Approvals and the 'As Soon As Practicable' Test,'' February 12, 1997. The report listed several possible control measures which were not included in the Cincinnati-Hamilton 15% plan. Some of these control measures have the potential to achieve significant emission reductions. These control measures include the federal reformulated gasoline program, federal Transfer, Storage, and Disposal Facility (TSDF) regulations, and federal consumer/commercial products regulations.

The federal reformulated gasoline program (RFG) (40 CFR part 80, subpart D) requires that gasoline providers in certain areas sell only gasoline which meets certain blending requirements to reduce pollution. Areas not already subject to these requirements, such as the Cincinnati-Hamilton area, can, under section 211(k)(6) of the Act, ''opt-in'' to the program, upon request to EPA by the Governor.

In the Cincinnati area there is not enough lead time to get a fuels program selected, approved, and in place for this summer's ozone season and by the next ozone season (the summer of 1999) the E-Check program will be about three quarters of the way through testing. In Phoenix, Arizona, for example, the Governor established an Air Quality Strategies Task Force in May 1996 to develop a report describing ozone reduction measures. In January 1997 the Governor requested to opt into the Reformulated Gasoline program. USEPA approved the program on June 3, 1997, with an effective date of August 4, 1997 for retailers and wholesale purchase-consumers. It took about 15 months, on an extremely expedited schedule from the time the task force was formed, for the program to become effective in the Phoenix area.

In addition, phase II RFG will be required in nonattainment areas using RFG in the year 2000, instead of the current phase I RFG used in certain nonattainment areas across the country. Given the short lead time, the start up of the E-Check program, and the national change over to phase II of RFG in areas using RFG, it is not practical to implement phase I RFG in place of E-Check in an effort to achieve the 15% ROP reduction requirement as soon as practicable. The Greater Cincinnati area will experience immediate benefits from the E-Check program, and these benefits will increase as more cars are tested and repaired. A significant portion of the automobiles will be tested and repaired by this summer in time for this year's ozone season. These benefits will help the area to make progress toward attaining the ozone standard as soon as practicable. Therefore, for all of these reasons, USEPA believes the reformulated gasoline program could not be implemented in the Ohio portion of the Cincinnati-Hamilton area significantly faster than E-check.

The federal TSDF regulations, promulgated pursuant to the Resource Conservation and Recovery Act (RCRA) as amended, require air pollution controls on certain facilities which manage hazardous wastes containing VOC and hazardous air pollutants. These regulations were promulgated in two phases, one on June 21, 1990 (55 FR 25454), and the other on December 6, 1994 (59 FR 62896). The final compliance date for the second phase of control was December 8, 1997. These Federal regulations are expected to provide significant emissions reduction in the Cincinnati area and will assist the area in making progress towards attainment of the ozone standard.

The February 12 EPA memorandum from Seitz and Ossias provides a report listing a cutback asphalt ban and open burning ban as measures the State could potentially adopt to achieve emission reductions. However, the report overestimates the emission reduction potential of a cutback asphalt ban because the use of cutback asphalt is prohibited in Ohio by OAC 3745–21–09(N). The State of Ohio also has an open burning ban that has been in place for a number of years. As for other control measures, such as regulating industrial adhesives reformulation and/or solvent cleaning substitution/equipment, these measures are not expected to achieve reductions significantly faster than E-check, because it would take Ohio one to two years to develop, adopt, and implement these measures. It is not reasonable to implement other controls to make up for the delay in implementing the E-check program and the emissions reduction is expected to be met by 1999 with the help of Federal emissions control programs.

Federal Architectural Coatings Rule

The State estimated that the anticipated Federal rule for architectural coatings would provide for a 25 percent emission reduction in that category. An EPA policy memorandum issued after the State had submitted its plan to EPA stated that only 20 percent is allowed. In addition there have been delays in proposing the rule, and the compliance date is not expected to occur until 1998. This change in policy would revise the emission reduction estimated downward by 0.8 TPD.

The State did not take credit in its plan for the Federal Nonroad engine emissions standards rule. This rule sets standards for new engines and will reduce emissions in the future. In addition, the State did not take credit for the automobile refinishing rule which is estimated to provide a 1.6 TPD emissions reduction. This assumes a 30 percent reduction in VOC emissions from the national automobile refinishing rule EPA is developing. These factors will help to offset the change in

[1] This analysis was based on the methodology specified in EPA's policy memoranda, ''Date by Which States Need to Achieve All the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation,'' August 13, 1996, and ''Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance,'' December 23, 1996. EPA policy provides that credit in 15% plans can be claimed from the I/M start date to November 1999.

emissions reduction credit for architectural coatings.

The State's plan provides a table of cost effectiveness estimates for the various control measures considered by the State for its plan.

TABLE 2.—STATUS OF EMISSIONS CONTROL MEASURES IN THE CINCINNATI-HAMILTON AREA 15 PERCENT ROP PLAN

Control measure	Status of rules
Stage II Vapor Recovery	Approved on October 20, 1994, at 59 FR 52911.
Enhanced Automobile Inspection and Maintenance.	Approved on April 4, 1995, at 60 FR 16989.
NESHAP for reducing coke by product Benzene emissions.	Federal Regulation (see 40 CFR part 61).
Enforcement Cases	Sources brought in to compliance since 1990 with preexisting rule.
Architectural Coatings	Federal Regulation for which Ohio may take credit (see memorandum dated March 7, 1996 from John Seitz, Director, Office of Air Quality Planning and Standards to Regional Division Directors).
CONTINGENCY EMISSIONS REDUCTION	Lower RVP rule to be addressed in subsequent rulemaking action.

G. Rate-of-Progress and Contingency Plan Demonstrations

Overall, Ohio's ROP plan provides for a 48.0 TPD emissions reduction, which meets the ROP requirements. The contingency plan provides for the necessary 3 percent emission reduction and both the contingency measure and the contingency plan will be addressed in a subsequent rulemaking action. EPA can address the contingency plan in a subsequent rulemaking action because it is not a prerequisite to approving the 15% ROP plan.

H. Enforceability

Each rule developed by the State for the Ohio portion of the Cincinnati-Hamilton area 15% ROP plan has been independently reviewed and approved by EPA as part of the State's SIP. Part of this review process includes a review of the enforceability of the rule. The remaining rules that the State is taking credit for are Federal rules or are expected to soon be issued as Federal rules.

IV. Final Rulemaking Action

EPA is approving the 15% rate of progress plan for the Ohio portion of the Cincinnati-Hamilton ozone nonattainment area. The plan will provide for a 15% emissions reduction by 1999, which is as soon as practicable.

For the purposes of transportation conformity determinations, final approval of this ROP plan revision also approves the 1996 mobile source emission budget of 57.23 TPD of VOC for the Ohio portion of the Cincinnati-Hamilton area. This budget is the projected 1996 emissions including growth and the reductions expected from E-Check and stage II gasoline vapor recovery. For years later than 1996, conformity determinations addressing VOCs must demonstrate consistency with this plan revision's motor vehicle emissions budget. Final approval of this ROP plan revision does not eliminate the need for a build/no-build test for oxides of nitrogen.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on March 30, 1998. However, if EPA receives significant adverse comments on the approval of the rate-of-progress plan in writing by February 27, 1998, which have not already been addressed by the State or EPA, EPA will withdraw the direct final approval of the plan and address the comments received in a new final rule.

V. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Ohio Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (sections 3745.70–3745.73 of the Ohio Revised Code). EPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the Clean Air Act, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio CAA program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, federal approval for the Clean Air Act program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

C. Executive Order 12866

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

D. Regulatory Flexibility

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, the Administrator certifies that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must

undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. 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 the private sector, result from this action.

F. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register.** This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

G. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeal for the appropriate circuit by March 30, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

VII. List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: January 9, 1998.

Michelle D. Jordan,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1885 is amended by adding paragraph (z) to read as follows:

§ 52.1885 Control Strategy: Ozone.

* * * * *

(z) The 15 percent rate-of-progress requirement of section 182(b) of the Clean Air Act, as amended in 1990, is satisfied for the Ohio portion of the Cincinnati-Hamilton ozone nonattainment area.

[FR Doc. 98–2081 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–27; RM–8901]

Radio Broadcasting Services; Salome, Arizona

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 241A to Salome, Arizona, as that community's first local aural transmission service in response to a petition filed on behalf of Browns Well Broadcasting. *See* 62 FR 4226, January 29, 1997. Coordinates used for Channel 241A at Salome, Arizona, are 33–46–54 and 113–36–42. As Salome is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to this allotment was requested but has not been received. Therefore, Channel 241A has been alloted to Salome with the following interim condition: ''Operation with the facilities specified herein is subject to modification, suspension, or termination without right to a hearing if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement'' (''Agreement''). The condition is a temporary measure as we have determined that Channel 241A at Salome complies with the Agreement. Once an official response from the Mexican government has been obtained, the interim condition may be removed. With this action, the proceeding is terminated.

DATES: Effective March 9, 1998. A filing window for Channel 241A at Salome, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a separate Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–27, adopted January 14, 1998, and released January 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Salome, Channel 241A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–2034 Filed 1–27–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. OST–96–1472]

RIN: 2105–AC68

Privacy Act; Implementation

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: DOT amends its rules implementing the Privacy Act of 1974 to exempt from certain provisions of the Act the Coast Guard's Marine Safety Information System.

DATES: This amendment is effective February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–10, Department of Transportation, Washington, DC 20590, telephone (202) 366–9156, FAX (202) 366–9170.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 28, 1997, the Department published a notice of proposed rulemaking entitled, Privacy Act; Implementation in the **Federal Register** (62 FR 63304). The Department did not receive any comments on the proposed rulemaking.

Background

The Coast Guard's Marine Safety Information System (MSIS) collects selected information on commercial and/or documented vessels operating in US waters, and collects and manages the data needed to monitor the safety performance of maritime vessels and facilities with which the Coast Guard comes into contact while performing its marine safety functions. It also monitors the identities of individuals and corporations that own or operate these vessels, and, if appropriate, aids the Coast Guard to develop law enforcement actions against such vessels, facilities, individuals, and corporations.

MSIS consolidates information from three other Coast Guard Privacy Act record systems: DOT/CG 561, Port Safety Reporting System (Individual Violation Histories); and DOT/CG 587, Investigations of Violations of Marine Safety Laws, and the automated, but not the manual, portions of DOT/CG 590, Merchant Vessel Casualty Reporting System. It also encompasses the automated, but not the manual, portions of DOT/CG 591, Merchant Vessel Documentation System.

Because of the capability to retrieve information by the names or other unique identifiers of individuals, MSIS is subject to the Privacy Act, which imposes many restrictions on the use and dissemination of information in the system. However, because MSIS can be used for law enforcement purposes, it is exempted from some of these restrictions.

This rule is being published as a final rule and is being made effective on February 15, 1998. Pursuant to 5 U.S.C. 553, good cause exists for promulgating this rule and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard is scheduled to commence Operational Testing and Evaluation for the Vessel Identification System (VIS), a congressionally mandated project, on February 15, 1998. VIS will incorporate specific vessel documentation information from the MSIS. The completion of this operational test is essential to the deployment of the VIS. Making the final rule effective at the time of the commencement of the operational test will significantly improve the transition to the VIS and negate any unintended consequences of not meeting the Congressional Mandate. Delaying the test may have adverse effects on the development and implementation of the VIS. Further, because the test will only involve a limited number of state administrators, and the information contained in VIS will be destroyed following the completion of the test, no adverse impacts are expected. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(d)(3), that the effective date of this rule should be made effective in less than 30 days after publication.

Privacy Act exemption

Under subsection (k) of the Privacy Act (5 USC 552a(k)), qualifying records may be exempted from various provisions of the Act. Among these provisions are the requirement in subsection (c)(3) to maintain an accounting of disclosures of information from a system of records and make that accounting available on request to the record subject; in subsection (d) to grant to a record subject access to information maintained on him/her under the Act; in subsection (e)(1) to maintain only such information as is relevant and necessary to accomplish a purpose of the agency under statute or Executive Order; in subsection (e)(4)(G), (e)(4)(H), and (e)(4)(I) to advise record subjects of the agency procedures to request if a system of records contains records pertaining to them, how they can gain access to such records and contest their content, and the categories of sources of such records; and in subsection (f) to establish rules governing the procedures above.

Under Subsection (k)(2) of the Privacy Act (5 USC 552a(k)(2)), investigatory material compiled for law enforcement purposes, other than material encompassed within Subsection (j)(2), may be exempted from these provisions, and DOT proposes to exempt MSIS accordingly; however, if an individual would be denied any right, privilege, or benefit to which he/she would otherwise be entitled by Federal law, of for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

DOT proposed to exempt MSIS from these provisions and invited public comment; none was received. DOT therefore is making its proposal final as written.

Analysis of regulatory impacts

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this rule will not have a significant economic impact on a substantial number of small entities, because the reporting requirements, themselves, are not changed and because it applies only to information on individuals.

This rule does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Collection of Information

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

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate,'' is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities, to spend, in aggregate, $100 million or more in any one year the UMRA analysis is required. This rule does not impose Federal mandates on any State, local or tribal governments or the private sector.

List of Subjects in 49 CFR Part 10

Penalties, Privacy.

Accordingly, DOT amends 49 CFR part 10 as follows:

PART 10—[AMENDED]

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

Authority: 5 USC 552a; 49 USC 322.

2. Part II.A of the Appendix is amended by republishing the introductory text and by adding a new paragraph 16, to read as follows:

* * * * *

APPENDIX TO PART 10—EXEMPTIONS

* * * * *

Part II. Specific exemptions.

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a, to the extent that they contain investigatory material compiled for law enforcement purposes in accordance with 5 USC 552a(k)(2):

* * * * *

16. Marine Safety Information System, maintained by the Operations Systems Center, U.S. Coast Guard (DOT/CG 588). The purpose of this exemption is to prevent persons who are the subjects of criminal investigations from learning too early in the investigative process that they are subjects, what information there is in Coast Guard files that indicates that they may have committed unlawful conduct, and who provided such information.

* * * * *

Issued in Washington, DC, on January 20, 1998.

Rodney Slater,

Secretary of Transportation.

[FR Doc. 98–1923 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–62–P

Proposed Rules

Federal Register
Vol. 63, No. 18
Wednesday, January 28, 1998

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 301 and 319

[Docket No. 96–016–22]

RIN 0579–AA83

Karnal Bunt; Movement From Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Karnal bunt regulations to allow, under certain conditions, commercial lots of seed to move from restricted areas for seed. We also propose to amend the testing requirements for regulated articles other than seed, remove certain articles from the list of articles regulated because of Karnal bunt, clarify the terms ''used mechanized harvesting equipment'' and ''used seed conditioning equipment,'' and clarify requirements for soil movement with vegetables. These changes would relieve restrictions on the movement of articles from areas regulated because of Karnal bunt. We also propose to amend the requirements for treating millfeed and soil, and remove the methyl bromide treatment alternative for decorative articles. These changes appear necessary to help prevent the spread of Karnal bunt. We also propose to amend the definition of surveillance areas to more clearly distinguish between surveillance areas and restricted areas. In addition, we are proposing to amend the regulations governing the importation of wheat into the United States to make the definition of the term ''Karnal bunt'' consistent with the definition of that term in the Karnal bunt regulations.

DATES: Consideration will be given only to comments received on or before March 30, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–016–22, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–016–22. 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 are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets. The regulations regarding Karnal bunt in the United States are set forth in 7 CFR 301.89–1 through 301.89–14.

We are proposing to amend the Karnal bunt regulations to allow, under certain conditions, commercial lots of seed to move from restricted areas for seed; amend the testing requirements for regulated articles other than seed; remove certain articles from the list of articles regulated because of Karnal bunt; clarify the terms ''used mechanized harvesting equipment'' and ''used seed conditioning equipment''; clarify requirements for soil movement with vegetables; amend the requirements for treating millfeed and soil; remove the methyl bromide treatment alternative for decorative articles; and amend the definition of surveillance areas.

Movement of Seed From Restricted Areas for Seed

Under the current Karnal bunt regulations, areas regulated because of Karnal bunt are divided into three categories: restricted areas for regulated articles other than seed, surveillance areas, and restricted areas for seed. Restricted areas for regulated articles other than seed are individual fields that were (1) found during survey to contain a bunted wheat kernel, (2) planted with seed from a lot that was found to contain a bunted wheat kernel, or (3) found during survey to contain spores consistent with Karal bunt and determined to be associated with grain at a handling facility containing a bunted wheat kernal. No field currently identified as a restricted area for regulated articles other than seed are currently planted with Karnal bunt host crops (wheat, durum wheat, and triticale), and no host crops may be planted in these fields. Surrounding these fields are the surveillance areas. The restricted areas for seed encompass the largest area, covering and extending beyond the other two categories of regulated areas.

The movement of commercial lots of seed from a restricted area for seed is prohibited; seed in smaller lots for germplasm or research purposes may be moved from a restricted area for seed if treated in accordance with the regulations at § 301.89–13(e).

Those portions of a restricted area for seed that extend beyond the surveillance areas do not contain any fields where a bunted wheat kernal has been found or any fields found to contain spores consistent with Karnal bunt and associated with grain at a handling facility containing a bunted wheat kernal. We propose to allow commercial lots of seed to move from a restricted area for seed if: (1) The field or fields where the seed was grown are not part of a restricted area for regulated articles other than seed or a surveillance area; (2) the seed tests negative for Karnal bunt (spores and bunted kernels); (3) the most recent previous Karnal bunt host crop grown in the field or fields where the seed intended for movement was grown also tested negative for Karnal bunt (spores and bunted kernels); and (4) the seed intended for movement is treated in accordance with § 301.89–13(e), currently designated as the treatment for

seed used as germplasm or for research purposes.

We would not allow seed to move from a restricted area for seed if the field where the seed was grown is also a part of a restricted area for articles other than seed or a surveillance area because of the higher risk of the presence of Karnal bunt in such areas. As noted above, the regulations do not allow for the planting of host crops in a restricted area for regulated articles other than seed. Therefore, seed cannot be grown in those areas. However, it is possible that a bunted kernel may be detected in a field that is not currently designated a restricted area for regulated articles other than seed while that field is planted with a Karnal bunt host crop. In that case, when the bunted kernel is detected, the field would immediately be designated a restricted area for regulated articles other than seed, and the crop would not be eligible for certified movement as a commercial lot of seed. Unlike restricted areas for regulated articles other than seed, surveillance areas may be planted with host crops, in accordance with § 301.89–4, and, therefore, seed could be grown in surveillance areas. Yet because of a surveillance area's proximity to a restricted area for regulated articles other than seed (i.e., a field associated with bunted kernels), we would not allow commercial lots of seed from surveillance areas to move out of the regulated area.

We would require that, prior to movement from the restricted area for seed, the seed test negative for Karnal bunt (spores and bunted kernels) to help reduce the risk of the spread of the disease to noninfected areas of the United States. Because of its intended use as seed for planting, seed presents a higher risk than grain of spreading Karnal bunt. Therefore, in accordance with § 301.89–4(b), we would require that seed test negative for both spores and bunted kernels before moving from the restricted area for seed.

Also, the most recent previous Karnal bunt host crop grown in the field or fields where the seed intended for movement was grown must have tested negative for Karnal bunt (spores and bunted kernels). This requirement would help verify the production area's long-term freedom from Karnal bunt. Because crops are rotated, a field will likely not be planted with Karnal bunt host crops in consecutive years. Negative test results for fields surveyed for Karnal bunt during the 1995–1996 and the 1996–1997 growing seasons would allow the next applicable Karnal bunt host crop planted in those fields to meet this eligibility requirement. If a field has not yet been surveyed, that field would have to be surveyed while planted with a host crop and found free of Karnal bunt (spores and bunted kernels) in order for a subsequent seed crop, during a future growing season, to meet this eligibility requirement. During each crop season, we would survey fields in the restricted area for seed that are planted with Karnal bunt host crops intended for use as seed and survey additional fields in the area. The data that we collect in these surveys will provide information over a period of years and through a variety of environmental conditions to confirm an area's continued freedom from the disease.

Lastly, we would require that, prior to movement from the restricted area for seed, the seed be treated in accordance with the treatment currently authorized for seed for use as germplasm or for research purposes (see § 301.89–13(e)). This requirement would help reduce the risk of the spread of Karnal bunt to noninfected areas of the United States.

Testing Requirements for Regulated Articles Other Than Seed

Currently, to be eligible for certified movement, regulated articles other than seed must be tested for both Karnal bunt spores and bunted kernels prior to movement from the regulated area (see § 301.89–6(b) and (d)). However, because of its intended uses (for example, processing for millfeed or animal feed), grain presents a much lower risk of spreading Karnal bunt than seed. We therefore propose to allow the certified movement of grain other than for seed if the grain is tested prior to movement from the field or before being commingled with other grains and found free of bunted kernels only, rather than Karnal bunt spores and bunted kernels. We believe that this testing of grain for bunted kernels provides an appropriate level of protection against the spread of Karnal bunt by grain.

Removal of Regulated Articles

Certain articles present a significant risk of spreading Karnal bunt if the articles are moved from regulated areas without restriction. We call these articles ''regulated articles.'' When Karnal bunt was first detected in the United States, we established an extensive list of regulated articles. Based on our experience with the control of other plant diseases, we included, as a precautionary measure, many articles on the list of regulated articles that we believed could present a significant risk of spreading Karnal bunt.

Subsequently, a further assessment of the risk involved in moving regulated articles was performed. This assessment considered factors such as additional information about Karnal bunt and the way in which it spreads, the size of regulated areas, the movement of regulated articles within and outside of regulated areas, and the normal business practices involved in the handling of regulated articles. As a result of this assessment, we are proposing to amend the list of regulated articles by removing used bags, sacks, and containers; used farm tools; used mechanized cultivating equipment; and used soil moving equipment from the list of regulated articles because these items present a negligible risk of spreading Karnal bunt. Accordingly, as these articles would no longer be regulated, we are also proposing to revise paragraph (a) of § 301.89–12 to remove the requirement that these articles be treated in accordance with § 301.89–13; to revise paragraph (a) of § 301.89–13, which describes treatments for mechanized farm equipment (which includes mechanized cultivating equipment), farm tools, and soil moving equipment; and to remove paragraph (f) of § 301.89–13, which describes treatments for bags, sacks, and containers. As a result of these changes to the regulations, used bags, sacks, containers, and used farm tools, mechanized cultivating equipment, and soil moving equipment would no longer have to be treated before being moved from a regulated area. These actions would relieve an unnecessary regulatory burden on the wheat industry in areas regulated because of Karnal bunt while continuing to protect against the spread of Karnal bunt to noninfected areas of the United States.

Used Mechanized Harvesting Equipment and Used Seed Conditioning Equipment

When we first established the regulations to prevent the spread of Karnal bunt in the United States, we listed as regulated articles ''used mechanized harvesting equipment'' and ''used seed conditioning equipment'' because, when this type of equipment is used in a regulated area in the production of Karnal bunt host crops, the equipment presents a risk of spreading Karnal bunt if moved outside the regulated area without restriction. However, in the regulations, we did not specify what was meant by the word ''used.'' Therefore, any mechanized harvesting equipment or seed conditioning equipment used in the area regulated for Karnal bunt, whether or not that equipment was used in association with Karnal bunt host crops, was subject to the requirements of the

regulations, including the treatment requirements in § 301.89–13.

Within the areas regulated because of Karnal bunt, there is no reason to regulate mechanized harvesting equipment and seed conditioning equipment if the equipment is not used in the production of Karnal bunt host grains. Therefore, we are proposing to amend § 301.89–2 (l) and (m) to clarify that only mechanized harvesting equipment and seed conditioning equipment that were used in the production of wheat, durum wheat, or triticale are considered regulated articles. Accordingly, we would also revise paragraph (a) of § 301.89–12 to clarify that only mechanized harvesting equipment and seed conditioning equipment that were used in the production of wheat, durum wheat, or triticale are required to be treated in accordance with § 301.89–13 prior to movement from the regulated area. (A regulated area includes all restricted areas for seed and all restricted and surveillance areas for regulated articles other than seed.) This action would relieve an unnecessary regulatory burden on producers in Karnal bunt regulated areas.

Soil Movement

We are also proposing to clarify the requirements for soil movement with vegetables, located at § 301.89–12(b), because there has been confusion concerning the requirements for soil attached to root crops and other commodities moving from areas regulated because of Karnal bunt. We have stated in previous documents that we believe that there is a risk of spreading Karnal bunt through the movement of soil. However, we recognize this risk in most cases is negligible based on (1) survey data, (2) intended use of the produce for consumption, and (3) the cleaning and handling of root crops and other commodities in normal business practice. Consequently, in this proposed rule, we propose to specify that soil attached to root crops and other commodities must be removed only if the crops or commodities were grown in fields that are in restricted areas for regulated articles other than seed because these are the fields that have been determined to be directly associated with bunted kernels. We believe that these fields are high risk for spreading Karnal bunt and warrant the soil removal restrictions. We believe that root crops and commodities from fields in proximity (i.e., restricted areas for seed) are lower risk, and that the intended use of the products (consumption) and normal business practices (cleaning and grading of the crops) are sufficient to mitigate the risk of spreading Karnal bunt to other areas of the United States. This action would relieve an unnecessary regulatory burden on growers of vegetables and fruits within regulated areas.

Millfeed Treatment

We are proposing to amend the requirements for treatment of millfeed. In the October 4, 1996, final rule, we established special requirements for the treatment and handling of millfeed. Specifically, we required that millfeed be treated with a moist heat treatment of 170 °F for at least 1 minute if the millfeed resulted from the milling of grain from either: (1) Fields in which preharvest samples test positive for Karnal bunt during the 1996–1997 crop season; or (2) fields located in a restricted area. During the 1996 harvest season, we allowed a destination State willing to accept appropriate monitoring responsibilities to determine the appropriate treatment and handling of millfeed based on the intended use of the millfeed within the destination State.

Because of changes to the description of ''restricted area'' made in the May 1, 1997, interim rule, millfeed must only be treated if it is produced from grain grown in a restricted area. However, under the May 1, 1997, interim rule, individual fields that are in restricted areas may not be planted with wheat, durum wheat, or triticale. Therefore, no millfeed is produced from grain grown in fields in restricted areas, and consequently, no millfeed currently requires treatment under the regulations. However, we believe that millfeed, if it results from the milling of grain that tests positive for Karnal bunt, carries a risk of spreading Karnal bunt. Therefore, we are proposing to amend § 301.89–13(c) to require that millfeed produced from grain that tests positive for Karnal bunt be treated with a moist heat treatment of 170 °F for at least 1 minute. This action will help prevent the spread of Karnal bunt into noninfected areas of the United States.

Methyl Bromide Treatment

The regulations at § 301.89–13(b) allow, among other things, straw/stalks/seed heads for decorative purposes to move from a regulated area if they are treated with methyl bromide. Straw/stalks/seed heads may move without treatment if they have been processed or manufactured prior to movement and are for use indoors. We are proposing to remove the methyl bromide treatment for straw/stalks/seed heads for decorative purposes. Results of recently conducted research indicate that methyl bromide is not effective in devitalizing teliospores of *Tilletia indica* under dry conditions. Wetting the straw/stalks/seed heads is not practical because the articles would be damaged. Straw/stalks/seed heads for decorative purposes would still be eligible for movement, if processed or manufactured prior to movement and intended for use indoors, or if moved under limited permit for specified handling, utilization, or processing, under the provisions of § 301.89–6. This action would remove an ineffectual treatment method from the regulations.

Section 301.89–13(b) also provides that soil may be moved from a regulated area after treatment with methyl bromide. Because we have established that methyl bromide does not deactivate teliospores of *Tilletia indica* under dry conditions, we are proposing to add a moisture condition to the treatment of soil. Based on research, we are proposing to require that soil be wetted with water, to a depth of 1 inch, just prior to methyl bromide treatment. The water may be added by irrigation or rain. This action would help prevent the spread of Karnal bunt into noninfected areas of the United States.

Definition of Surveillance Areas

We are proposing to amend the description of surveillance area at § 301.89–3(e)(4) to clarify that a surveillance area is an area where Karnal bunt is not known to occur but where, for various reasons, intensive surveys are necessary. This action would help differentiate between the status of a restricted area for regulated articles other than seed and the status of a surveillance area.

Definition of Karnal Bunt

The regulations at 7 CFR 319.59 through 319.59–2 govern the importation of wheat into the United States to prevent the introduction of foreign wheat diseases, such as flag smut and Karnal bunt. We are proposing to revise the definition of ''Karnal bunt'' at § 319.59–1 to make it consistent with the definition of Karnal bunt in § 301.89–1. The new definition of Karnal bunt at § 319.59–1 would read ''A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.''

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, has been

reviewed by the Office of Management and Budget.

The Karnal bunt regulations were established under the Plant Quarantine Act (7 U.S.C. 151–165 and 167) and the Federal Plant Pest Act (7 U.S.C. 150aa–150jj), which authorize the Secretary of Agriculture to take measures necessary to prevent the spread of plant pests, including diseases, that are new to, or not widely prevalent in, the United States.

We are proposing to amend the Karnal bunt regulations to allow, under certain conditions, commercial lots of seed to move out of a restricted area for seed and to amend the testing requirements for regulated articles other than seed. We also propose to remove certain articles from the list of articles regulated because of Karnal bunt, clarify the terms ''used mechanized harvesting equipment'' and ''used seed conditioning equipment,'' and clarify requirements for soil movement with vegetables. These changes would relieve restrictions on the movement of articles from areas regulated because of Karnal bunt. We also propose to amend the requirements for treating millfeed and soil, and remove the methyl bromide treatment alternative for decorative articles.

The proposed change to allow, under certain conditions, commercial lots of seed to move out of a restricted area for seed would benefit regulated growers of wheat seed and other affected entities. For the first time since the regulated area was established, commercial lots of wheat seed would be eligible to move out of the regulated area, if, among other things, the seed was grown in a restricted area for seed that is not also part of a restricted area for regulated articles other than seed or a surveillance area. Those regulated areas that are restricted areas for seed, but that are not also part of a restricted area for regulated articles other than seed or a surveillance area, amount to an estimated 727,335 acres of regulated land in four States (Arizona, California, New Mexico, and Texas). These 727,335 acres represent 75 percent of the combined regulated area in those four States. The proposed change would, therefore, open up a substantial volume of regulated acreage to export sales of wheat seed. The estimated current regulated acreage, by State and regulatory designation, is as follows:

	Arizona	California	New Mexico	Texas	Total
Restricted area for seed	797,000	100,000	58,650	[1] 20,469	976,119
Restricted area for regulated articles other than seed	6,162	3,113	3,990	1,519	14,784
Surveillance area	135,000	84,000	0	15,000	234,000
Portion of restricted area for seed that would be eligible to grow wheat seed for movement in commercial lots from the regulated area	655,838	12,887	54,660	3,950	727,335

[1] For El Paso, restricted area for seed includes only acreage for the plowdown fields.

The opportunity for export sales of seed should have a positive impact on seed planting in the regulated area. The magnitude of that impact is difficult to measure, however, because year-to-year changes in seed planting is a function of many factors, including factors not related to the regulatory environment (e.g., prices). The impact of this proposal would likely be most noticeable 1 to 2 years after the effective date of the rule; by that time, growers would have had the chance to adjust planting schedules to take advantage of the amended restrictions and would have had the opportunity to satisfy another of the proposal's requirements, that is, that the most recent previous Karnal bunt host crop grown in the field must have tested negative for Karnal bunt (spores and bunted kernels).

Another of the proposal's requirements, that seed be treated prior to movement, may limit the amount of seed that can be moved in the short term and may also discourage some growers from planting seed. Under the proposal, in addition to fungicide treatments, commercial lots of seed would have to be treated with sodium hyperchloride (chlorine) as currently designated for the treatment of seed used for germplasm or for research purposes. Because of the corrosive nature of chlorine, stainless steel vats or containers may need to be installed for treating the seed. Thus, in addition to expenditures for chemicals, some producers may incur costs for special equipment in order to comply with the conditions of the proposal. However, the proposed treatment for commercial seed is necessary to reduce the risk of the spread of Karnal bunt to noninfected areas of the United States.

Notwithstanding these requirements, the positive potential of the proposed changes on seed plantings could be considerable. As indicated above, an estimated 727,335 acres of regulated land would be eligible to grow wheat seed that could, under certain conditions, move in commercial lots outside of the regulated area. It is estimated that only about 15 percent of those 727,335 acres are currently planted with wheat, leaving the remaining 85 percent (approximately 618,235 acres) potentially available for wheat seed planting in the future. Even if only 5 percent of the 618,235 acres were planted with seed as a result of the proposed changes, an additional 30,912 acres in the regulated area would be planted with seed. By comparison, 118,087 acres of wheat were planted in the entire regulated area in the 1996–97 growing season.

We are also proposing to amend the testing requirements for grain used other than for seed. Under the proposal, such grain would have to be tested and found free of bunted kernels, rather than spores and bunted kernels, prior to movement from the regulated area. Growers and handlers of grain would benefit from this change in the testing requirements.

As much as 90 percent of the acreage of surveillance areas that is planted with wheat is devoted to the production of grain. This rule change, therefore, has the potential to affect most of the wheat grown in surveillance areas. Because grain intended for movement from the regulated area would be surveyed for bunted kernels only, and because those surveys would be conducted at the field rather than at the conveyance, we expect that the new testing procedures would save time for grain handlers. In addition, because laboratory analyses for spores would no longer be required, USDA would save money as a result of the new testing procedures. However, it is difficult to predict the savings in time or money, or if there would be an increase in the number of shipments that would move from the regulated area, before the new testing procedures are in place. Nevertheless, this proposed change would likely have a positive impact on the movement of grain and other regulated articles other than seed from the regulated area.

For both of these proposed changes (i.e., to allow, under certain conditions, the movement of commercial lots of seed from restricted areas for seed and to amend the testing requirements for regulated articles other than seed), the

entities that would likely be most affected by the changes would be wheat producers. It is estimated that there are currently a total of 354 wheat growers in the regulated areas: 248 in Arizona, 21 in California, 23 in New Mexico, and 62 in Texas. Of those, the number of wheat growers in surveillance areas is estimated to be 84, with 21 in Arizona, 18 in California, and 45 in Texas, and the number of wheat growers in the restricted area for seed (not including restricted areas for regulated articles other than seed or surveillance areas) is estimated to be 270, with 227 in Arizona, 3 in California, 23 in New Mexico and 17 in Texas. Most of these wheat growers are assumed to have gross annual receipts of less than $0.5 million, the U.S. Small Business Administration's threshold for classifying wheat producers as small entities. Accordingly, these proposed changes would positively impact primarily small entities. Growers would benefit from fewer restrictions on the movement of regulated articles, which would enable growers to reach new markets for their products. In addition, wheat seed dealers, harvesters, transporters, and processors may also benefit from the proposed changes to the regulations, but the magnitude of the impact on these entities cannot be determined.

Regarding the remainder of the proposed actions in this document, three main parties would be affected by these amendments: vegetable growers, millers, and decorative wheat product makers.

It is estimated that there are nearly 50 vegetable growers within the regulated areas. However, vegetables are expected to be grown on only about one-quarter of the total restricted acreage in the regulated area. Those who do grow vegetables in this area are believed to already sufficiently clean their root crop produce so that few, if any, will be affected by APHIS cleaning protocol.

There are fewer than 30 millers who would potentially be affected by the proposed changes. The exact number of millers who elect to mill wheat that has tested positive for Karnal bunt is unknown at this time. However, data show that for the four States in the original regulated area, the number of wheat millers are: California (12, with 1 processing durum); Arizona (2, with 1 processing durum); New Mexico (1); and Texas (7, with 1 processing rye). In 1996–97, there were 24 wheat millers in and around the regulated area that entered into limited permits with APHIS: 2 in Arizona, 1 in New Mexico, and 21 in California. Data from limited permits issued in the regulated areas indicate that millers in the following States were also affected: Minnesota, Oregon, Virginia, Missouri, and Wisconsin. However, it is anticipated that very little wheat that tests positive for Karnal bunt will be present and thus available for milling. Also, it is likely that any wheat that tests positive for Karnal bunt will be channeled into animal feed uses.

No information is available on the number and size of affected firms that deal in decorative wheat products. Any data on the number and size of these entities are welcomed from the public.

Virtually all of the industries affected are likely to be composed of producers and firms that can be categorized as small according to the Small Business Administration (SBA) size classification. Economic impacts resulting from this rule would therefore largely affect small entities. The analysis of economic impacts discussed below would thus fulfill the requirement of a cost-benefit analysis under E.O. 12866, as well as the analysis of impacts of small entities as required by the Regulatory Flexibility Act. Unless otherwise noted, the SBA's characterization of a small business for the categories of interest in this analysis is a firm that employs at most 500 employees, or has sales of $5 million or less.

It is expected that these proposed regulatory changes would provide some positive economic relief to entities in the regulated area. This is especially true for businesses that produce decorative wheat products and ship outside the regulated area and for vegetable growers on non-restricted acres because these persons are effectively deregulated. Cleaning of vegetables and treatment of millfeed could increase costs to some affected firms. However, cleaning of vegetables, according to APHIS protocol, is not expected to differ greatly from normal business practices, so additional costs should be minimal. Also, it is expected that little of the wheat that tests positive for Karnal bunt in surveillance areas will be milled for flour.

In terms of the vegetable cleaning protocol, it is expected that, at most, one-quarter of the restricted acres, or 3,356 acres, comes into vegetable production in 1997. Assuming a cleaning cost of $20 per acre, this cleaning requirement would create an economic cost of $67,115 (or 3,356 acres at $20 per acre).[2] This total cost is not expected to significantly increase the cost of production on individual operations. An additional $1,345 would be incurred in cleaning vegetables on a typical farm ($67,115 divided by 50 entities). Any additional information concerning the impact on vegetable growers is welcomed from the public.

In terms of millfeed treatment, assuming a 15-percent infection rate on the 1,072,800 bushels expected to be produced in the surveillance areas in the regulated area in 1997, only 160,920 bushels of wheat that tests positive for Karnal bunt is expected. If 50 percent of this quantity were to remain in the regulated area and be milled into flour, 604 tons of millfeed would be produced. In the worst case scenario, if all production were to test positive for Karnal bunt and remain in the regulated area for milling, 8,046 tons of millfeed would be produced. It is expected that most millers who must handle millfeed produced from wheat that tests positive for Karnal bunt have the facilities or access to facilities to treat it at this time. Cost estimates on a per establishment basis are not available because the Karnal bunt contamination rate and the amount of wheat that tests positive for Karnal bunt to be milled is not known. Additionally, compensation for millfeed treatment produced from wheat grown in a regulated area that tests positive for Karnal bunt has been proposed and published in the **Federal Register** on July 11, 1997. The level of compensation proposed is $35 per ton. At this level of cost offset, and assuming that the initial purchase of treatment facilities has been made, the proposed compensation level is expected to cover almost all the costs of treatment. Thus, the amount of compensation requested on all of this millfeed ($21,121 of compensation in the first scenario discussed above and $281,610 in the worst case scenario) is expected to offset all of the economic costs incurred by millers in following APHIS millfeed protocol requirements.

In terms of methyl bromide treatment for producers of decorative wheat products, this proposed rule change would, effectively, relax current regulations and, therefore, is expected to result in lower production costs for firms using decorative wheat products. No estimate of this relief is possible given the data available. Similarly, the additional cost associated with the moisture requirement for the methyl bromide treatment of soil is also unknown but is expected to be small. Any additional information from the public concerning these impacts is welcomed.

[2] This *additional* cost of $20 per acre is for added labor and equipment that would be incurred by vegetable growers in adhering to APHIS' cleaning protocols.

These rule changes are being proposed as a result of new evidence that indicates that no additional risk of Karnal bunt spread is likely if they are adopted. For example, the articles released from regulation have been determined to pose minimal risk of Karnal bunt spread to non-infected areas. Millfeed treatment has been relaxed on flour produced from wheat production on fields that test negative for Karnal bunt, but treatment is still required for wheat that tests positive for Karnal bunt. Decorative wheat products which are likely to come into contact with soil in and outside the regulated area pose little if any risk of disease spread. These proposed regulatory changes are the result of continuous research and practical industry experience in dealing with Karnal bunt.

We also propose to amend the definition of surveillance areas to more clearly distinguish between surveillance areas and restricted areas. In addition, we propose to amend the regulations governing the importation of wheat into the United States to make the definition of the term ''Karnal bunt'' consistent with the definition of that term in the Karnal bunt regulations. We do not anticipate that these changes would have any economic impact.

The proposed changes to the regulations would not result in any new information collection or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR parts 301 and 319 are proposed to be amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 301.89–2 would be amended as follows:

a. By removing paragraphs (i), (j), (k), and (n).

b. By redesignating paragraphs (l), (m), and (o) as paragraphs (i), (j), and (k), respectively.

c. By revising newly designated paragraphs (i) and (j) to read as set forth below:

§ 301.89–2 Regulated articles.

* * * * *

(i) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, and triticale;

(j) Seed conditioning equipment that has been used in the production of wheat, durum wheat, and triticale; and

* * * * *

3. Section 301.89–3 would be amended by revising paragraph (e)(3) to read as follows:

§ 301.89–3 Regulated areas.

* * * * *

(e) * * *

(3) *Surveillance areas.* A surveillance area is a distinct definable area where Karnal bunt is not known to exist but, because of its proximity to a field found during survey to contain a bunted kernel or because of its association with grain at a handling facility containing a bunted kernel, where intensive surveys are required.

* * * * *

4. In § 301.89–5, the period at the end of paragraph (a)(3) would be removed and a semicolon added in its place and a new paragraph (a)(4) would be added to read as follows:

§ 301.89–5 Movement of regulated articles from regulated areas.

(a) * * *

(4) Without a certificate or limited permit, provided the regulated article is straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors.

* * * * *

5. Section 301.89–6 would be amended as follows:

a. By revising paragraph (b) to read as set forth below.

b. By adding a new paragraph (d) to read as set forth below.

§ 301.89–6 Issuance of a certificate or limited permit.

* * * * *

(b) To be eligible for movement under a certificate, grain from a field within a surveillance area must be tested prior to its movement from the field or before it is commingled with other grains and must be found free from bunted kernels. If bunted kernels are found, the grain will be eligible for movement only under a limited permit issued in accordance with paragraph (c) of this section.

* * * * *

(d) To be eligible for movement as seed under certificate, commercial lots of seed grown in a restricted area for seed must:

(1) Originate from a field or fields that are not part of a restricted area for regulated articles other than seed or a surveillance area;

(2) Originate from a field or fields where the most recent previous Karnal bunt host crop tested negative for Karnal bunt;

(3) Test negative for Karnal bunt; and

(4) Be treated in accordance with § 301.89–13(e).

* * * * *

6. Section 301.89–12 would be revised to read as follows:

§ 301.89–12 Cleaning and disinfection.

(a) Mechanized harvesting equipment and seed conditioning equipment that have been used in the production of Karnal bunt host crops must be cleaned and disinfected in accordance with § 301.89–13 prior to movement from a regulated area.

(b) Prior to movement from a regulated area, vegetable crops grown in fields that are in restricted areas for regulated articles other than seed must be cleaned of all soil and plant debris or be moved under limited permit in accordance with § 301.89–6.

7. Section 301.89–13 would be amended as follows:

a. By revising paragraph (a) introductory text to read as set forth below.

b. By revising paragraphs (b) and (c) to read as set forth below.

c. By revising paragraph (e) introductory text to read as set forth below.

d. By removing paragraph (f).

§ 301.89–13 Treatments.

(a) All conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling wheat, durum wheat, or triticale required to be cleaned and disinfected under this subpart must be cleaned by removing all soil and plant debris and disinfected by one of the methods specified in paragraphs (a)(1) through (a)(4) of this section, unless a particular treatment is designated by an inspector. The treatment used must be that specified by an inspector if that treatment is deemed most effective in a given situation:

* * * * *

(b) Soil must be wet to a depth of 1 inch by water (irrigation or rain) just prior to treatment and must be treated by fumigation with methyl bromide at the dosage of 15 pounds/1000 cubic feet for 96 hours.

(c) Millfeed must be treated with a moist heat treatment of 170 °F for at least 1 minute if the millfeed resulted from the milling of wheat, durum wheat, or triticale that tested positive for Karnal bunt.

* * * * *

(e) Commercial lots of seed originating from an eligible restricted area for seed, as described in § 301.89–6(d)(1), or seed originating from a restricted area for seed that will be used for germplasm or for research purposes, must be treated with a 1.5 percent aqueous solution of sodium hypochlorite (=30 percent household bleach) containing 2 mL of Tween 20™ per liter agitated for 10 minutes at room temperature followed by a 15-minute rinse with clean, running water and then by drying, and either:

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

8. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

9. In § 319.59–1, the definition of ''Karnal bunt'' would be revised to read as follows:

§ 319.59–1 Definitions.

* * * * *

Karnal bunt. A plant disease caused by the fungus Tilletia indica (Mitra) Mundkur.

* * * * *

Done in Washington, DC, this 20th day of January 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1776 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–120882–97]

RIN 1545–AV81

Continuity of Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: The IRS is issuing temporary regulations published elsewhere in this issue of the **Federal Register** providing guidance regarding satisfaction of the continuity of interest requirement for corporate reorganizations. The temporary regulations affect corporations and their shareholders. The text of those temporary regulations also serves as the text of these proposed regulations. In addition, this document provides notice of a public hearing on these proposed regulations.

DATES: Written comments and outlines of topics to be discussed at the hearing scheduled for Tuesday, May 26, 1998, must be received by Tuesday, May 5, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–120882–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–120882–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Phoebe Bennett, (202) 622–7750; concerning submissions and the hearing, LaNita Van Dyke, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations published elsewhere in this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) under section 368. The temporary regulations provide that in determining whether the continuity of interest requirement for corporate reorganizations is satisfied with respect to a potential reorganization, a proprietary interest in the target corporation is not preserved if, in connection with a potential reorganization, it is redeemed or acquired by a person related to the target corporation, or to the extent that, prior to and in connection with a potential reorganization, an extraordinary distribution is made with respect to it.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations describes the temporary regulations.

The temporary regulations do not provide guidance on the determination of whether a distribution will be treated as an extraordinary distribution, except that the rules of section 1059 do not apply for this purpose. The IRS and Treasury Department invite comments on whether the regulations should provide more specific guidance in this area.

Special Analyses

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled at 10 a.m. on Tuesday, May 26, 1998, in room 2615, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

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

Persons that wish to present oral comments at the hearing must submit written comments by Tuesday, May 5, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by Tuesday, May 5, 1998.

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

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

Proposed Effective Date

These regulations are proposed to apply to transactions occurring after January 28, 1998, except that they do not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.368–1 is amended as follows:

1. Revising paragraphs (e)(1)(ii)(A), (e)(1)(ii)(B), (e)(2)(ii), and (f).

2. Adding paragraph (e)(6) *Example 10* and *Example 11*.

The addition and revisions read as follows:

§ 1.368–1 Purpose and scope of exception of reorganization exchanges.

[The text of proposed paragraphs (e)(1)(ii)(A) and (B), (e)(2)(ii), (e)(6) *Example 10* and *Example 11*, and (f) is the same as the text of § 1.368–1T published elsewhere in this issue of the **Federal Register**].

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–1817 Filed 1–23–98; 12:15 pm]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–251985–96]

RIN 1545–AU79

Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States; Also, Source of Income Derived From Certain Purchases From a Corporation Electing Section 936; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations governing the source of income from sales of inventory produced in the United States and sold in a possession of the United States or produced in a possession of the United States and sold in the United States.

DATES: The public hearing originally scheduled for Thursday, January 29, 1998, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 863 and 936 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Friday, October 10, 1997 (62 FR 52953), announced that the public hearing on proposed regulations under sections 863 and 936 of the Internal Revenue Code would be held on Thursday, January 29, 1998, beginning at 10:00 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Thursday, January 29, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–2013 Filed 1–27–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH58–1b; FRL–5954–5]

Approval and Promulgation of State Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the ozone State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of reducing volatile organic compound (VOC) emissions in the Ohio portion of the Cincinnati-Hamilton area by 15 percent by November 15, 1996. The plan and regulations will help to protect the public's health and welfare by reducing the emissions of VOCs that contribute to the formation of ground-level ozone, commonly known as urban smog. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received on or before February 27, 1998.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones at (312) 886–6058 and Francisco Acevedo at (312) 886–6061.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 9, 1998.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 98–2085 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5956–7]

Notice of Proposed Rulemaking (NPR) for NO_X SIP Call—Clarification of Comment Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; clarification of comment process.

SUMMARY: On November 7, 1997, the **Federal Register** published the Environmental Protection Agency's (the Agency's) Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone; Proposed Rule, 40 CFR part 52. The proposed rule provides a 120-day comment period which ends March 9, 1998. The proposed rule also states that ''Because commenters may wish to submit technical information that may require additional time to develop, EPA will accept additional pertinent information beyond the 120-day time frame and will do what is possible to take the information into account for the final rulemaking.'' However, the EPA is publishing today's document to clarify that certain information, described below, must be submitted by the end of the 120-day comment period to be considered in the final rulemaking.

As part of the final rulemaking, EPA intends to perform certain air quality modeling analyses. In order for these analyses to be completed in time for the final rulemaking, emission inventory data need to be finalized by mid-March. Therefore, any comments concerning emission inventory data that are to be considered in the modeling analyses must be received by EPA within the official 120-day comment period (i.e., by March 9, 1998). Comments related to the inventory that are received after this date cannot be considered for the purpose of modeling.

FOR FURTHER INFORMATION CONTACT: Laurel Schultz, Office of Air Quality Planning and Standards, Emissions, Monitoring and Analysis Division, MD–14, Research Triangle Park, NC 27711, telephone (919) 541–5511.

Dated: January 23, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–2207 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–2; RM–9217]

Radio Broadcasting Services; Hawesville and Whitesville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WLME, Inc., proposing the reallotment of Channel 246A from Hawesville to Whitesville, Kentucky, and the modification of Station WXCM(FM)'s license accordingly. Channel 246A can be reallotted to Whitesville in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.9 kilometers (8.6 miles) north to accommodate petitioner's requested site. The coordinates for Channel 246A at Whitesville are North Latitude 37–48–39 and West Longitude 86–53–18. In accordance with § 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 246A at Whitesville, Kentucky.

DATES: Comments must be filed on or before March 16, 1998, and reply comments on or before March 31, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patricia M. Chuh, Pepper & Corazzini, L.L.P., 1176 K Street, NW., Suite 200, Washington, DC. 20006 (Counsel for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–2, adopted January 14, 1998, and released January 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–2033 Filed 1–27–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–3; RM–9218]

Radio Broadcasting Services; Manson, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Manson Broadcasting proposing the allotment of Channel 234C3 at Manson, Washington, as the community's first local aural transmission service. Channel 234C3 can be allotted to Manson in compliance

with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 234C3 at Manson are North Latitude 47–53–18 and West Longitude 120–09–18. Since Manson is located within 320 kilometers (200 miles) the U.S.-Canadian border, concurrence of the Canadian government has been requested.

DATES: Comments must be filed on or before March 16, 1998, and reply comments on or before March 31, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Duane J. Polich, Manson Broadcasting, P.O. Box 70, Oak Harbor, Washington 98277 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–3, adopted January 14, 1998, and released January 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–2032 Filed 1–27–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE57

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Plant Astragalus Desereticus (Deseret milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine a Utah plant species, *Astragalus desereticus* (Deseret milk-vetch), to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). *Astragalus desereticus*, considered extinct for 72 years prior to 1981, exists as one small population in Utah County, Utah. Threats to the plant include residential development, livestock grazing, livestock and wildlife trampling, and threats associated with small population size. This proposal, if made final, would implement Federal protection provided by the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by March 30, 1998. Public hearing requests must be received by March 16, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Utah Ecological Services Field Office, U.S. Fish and Wildlife Service, Lincoln Plaza Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John L. England at the above address (telephone: 801/524–5001, ext. 138).

SUPPLEMENTARY INFORMATION:

Background

Marcus E. Jones collected a distinctive *Astragalus* from ''below Indianola,'' a town in Sanpete County, Utah, on June 2, 1893. The same species was again collected by Ivar Tidestrom from ''near Indianola'' on June 17, 1909. Specimens from these two collections lay in obscurity in various herbaria until Rupert Barneby recognized their uniqueness and described them as *Astragalus desereticus* (Barneby 1964). Efforts to relocate the species were initially fruitless (Barneby 1964; Welsh 1978a, 1978c), leading to a presumption of extinction (Ripley 1975; Welsh 1975, 1978b). However, a population of *A. desereticus* was discovered by Elizabeth Neese on May 27, 1981, on a sandstone outcrop above the town of Birdseye, Utah County, Utah, less than 16 kilometers (km) (10 miles (mi)) from Indianola (Welsh and Chatterley 1985). This population remains the only known occurrence of this species (Franklin 1990, 1991; U.S. Fish and Wildlife Service (USFWS) 1991). It is possible that this population is the one from which Jones and/or Tidestrom made their collections more than 70 years earlier (Franklin 1990, 1991; Welsh and Chatterley 1985).

Astragalus desereticus is a perennial, herbaceous plant in the bean family (Fabaceae). Individual plants are approximately 4 to 15 centimeters (cm) (2 to 6 inches (in)) in height, with stems about 6 cm (2 in) tall. The pinnately compound leaves are 4 to 11 cm (2 to 4 in) long with 11 to 17 leaflets. The leaflets are elliptic to ovate in shape, with dense silvery gray hairs on both sides. The flowers are 1.8 to 2.2 cm (0.7 to 0.9 in) long, white in color with a purple tip on the keel, and borne on a stalk of 5 to 10 flowers. The seed pods are 1 to 2 cm (0.4 to 0.8 in) long, covered with lustrous hairs, and bear 14 to 16 ovules (Barneby 1964; Barneby in Cronquist *et al.* 1989; Welsh 1978c; Welsh *et al.* 1987).

Astragalus desereticus occurs primarily on steep south- and west-facing slopes. The plant grows on soils derived from a specific and unusual portion of the geologic Moroni Formation. This geologic feature is characterized by coarse, crudely bedded conglomerate (Franklin 1990). The plant community in which *A. desereticus* occurs is dominated by pinon pine (*Pinus edulis*) and Utah juniper (*Juniperus osteosperma*). Other associated plant species include: sagebrush (*Artemisia tridentata*), scrub oak (*Quercus gambelii*), and wild buckwheat (*Eriogonum brevicaule*) (Franklin 1990).

The only known population of *Astragalus desereticus* consists of between 5,000 and 10,000 individuals growing in an area of less than 120 hectares (ha) (300 acres (ac)) (Franklin 1990, Stone 1992). The species' total range is approximately 2.6 km (1.6 mi) long and 0.5 km (0.3 mi) across. Extensive searches of similar habitat in other parts of Utah have not revealed any other populations (Franklin 1991; Larry England, USFWS, pers. comm., 1997). The land upon which *A. desereticus* grows is owned by the State

of Utah and three private landowners (Franklin 1990, 1991; Chris Montague, The Nature Conservancy, pers. comms., 1992, 1997). This plant species is threatened by grazing and trampling by ungulates, alteration of its habitat due to residential development and road widening, and naturally occurring events such as fire, due to its limited distribution.

Previous Federal Action

Section 12 of the Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition to list those taxa named therein under section 4(c)(2) (now 4(b)(3)) of the Act, and its intention to review the status of those plants. *Astragalus desereticus* was included in the July 1, 1975, notice on list ''C,'' indicating that the species was probably extinct.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to designate approximately 1,700 vascular plant species, including *Astragalus desereticus,* as endangered pursuant to section 4 of the Act. The list of those 1,700 plant species was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. In the proposed rule, the Service also designated *A. desereticus* as a species about which the Service was particularly interested in obtaining any new information on living specimens and extant populations. General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn, although proposals published before the 1978 amendments' enactment could not be withdrawn before the end of a 1-year grace period beginning on the enactment date. On December 10, 1979, the Service published a notice of withdrawal (44 FR 70796) of that portion of the June 16, 1976, proposal that had not been made final, which included *A. desereticus.*

On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480) designating *Astragalus desereticus* a category 1 candidate species. Category 1 candidates were defined as those taxa for which the Service had on file information on biological vulnerability and threats to support the preparation of listing proposals. In addition, *A. desereticus* was identified as a species that may have recently become extinct. In 1981, a population of *A. desereticus* was discovered. On November 28, 1983, the Service published a revised notice of review in the **Federal Register** (48 FR 53640) in which *A. desereticus* was included as a category 2 candidate species. Category 2 candidates were formerly defined as taxa for which data on biological vulnerability and threats indicated that listing was possibly appropriate, but for which data were not sufficient to support issuance of listing proposals. In preparing the 1983 notice, the Service deemed it appropriate to acquire additional information on the distribution and abundance of *A. desereticus* before proposing the species for listing. The Service maintained *A. desereticus* as a category 2 species in updated notices of review published on September 27, 1985 (50 FR 39526), and February 21, 1990 (55 FR 6184). As a result of additional information obtained in 1990 and 1991 status surveys (Franklin 1990, USFWS 1991), the Service reclassified *A. desereticus* as a category 1 candidate in the September 30, 1993, notice of review (58 FR 51144). In the February 28, 1996, notice of review (61 FR 7596), the Service discontinued the designation of category 2 candidates. *Astragalus desereticus* was included as a candidate in the February 28, 1996 (61 FR 7596), and September 19, 1997, notices of review (62 FR 49398).

The processing of this proposed rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475). In a **Federal Register** notice published on October 23, 1997 (62 FR 55628), the guidance was extended beyond fiscal year 1997 until new guidance is published following passage of the fiscal year 1998 appropriations bill for the Department of the Interior. The fiscal year 1997 guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104–6), and (2) the restoration of significant funding for listing through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Based on biological considerations, this guidance establishes a ''multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act'' (61 FR 64479). The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule for *Astragalus desereticus* falls under Tier 3. The guidance states that ''effective April 1, 1997, the Service will concurrently undertake all of the activities presently included in Tiers 1, 2, and 3'' (61 FR 64480). The Service has thus begun implementing a more balanced listing program, including processing more Tier 3 activities. The completion of this Tier 3 activity (a proposal for a species with high-magnitude, imminent threats) follows those guidelines.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus desereticus* Barneby (Deseret milk-vetch) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Astragalus desereticus is located on highly accessible public and private land that is used for cattle grazing and wildlife management (Franklin 1991, Stone 1992). The land managed by the State of Utah Division of Wildlife Resources (DWR) is a wildlife management area that is also used for cattle grazing (Franklin 1991). Cattle are used by DWR in the spring to encourage plant growth for big game forage in the winter. This grazing occurs within the habitat of *A. desereticus* (Stone 1992). The cattle tend to concentrate primarily on the upslope areas where forage production is greater (Stone 1992). Erosion in these areas is exacerbated by cattle grazing and game trails. In addition to the effects of erosion, trampling threatens *A. desereticus,* particularly at the southern end of the range (Franklin 1991). As cattle and

wildlife graze the habitat of *A. desereticus*, the animals are likely to trample plants as they forage. Whereas mule deer (*Odocoileus hemionus*) have maintained stable numbers recently, Rocky Mountain elk (*Cervas elephas*) populations are increasing. Erosion and trampling by cattle and wildlife constitute threats to *A. desereticus.*

Development in the Wasatch Front metropolitan area is spreading into the surrounding agricultural lands, especially small communities in the drainages of the Provo, Spanish Fork, and Weber rivers (Utah Governor's Office of Planning and Budget (UGOPB) 1997). Areas such as Birdseye are predicted to be rezoned residential within a short time. The population growth of the metropolitan area is expected to nearly double by the year 2020. In addition, conversion of agricultural land to urban use is also expected to nearly double in the same time period (UGOPB 1997). The entire *Astragalus desereticus* population is within 300 meters (1,000 feet) of U.S. Highway 89 and is within the area proposed for future development (UGOPB 1997). Transportation needs of the expanding population will also require roads to be widened or improved. U.S. Highway 89 is currently a two-lane rural highway that will likely be expanded when residential development expands into southern Utah County and northern Sanpete County. Such highway widening and the concomitant residential development could destroy a significant portion of the remaining habitat of *A. desereticus.*

A potential threat to *Astragalus desereticus* is related to the populations of ungulates in the area and their effect on pollinators. Other species in the genus *Astragalus* have suffered from low numbers of pollinators due to the indirect effects ungulates may have on the pollinators' nest sites (Stone 1992). Bumblebees (*Bombus* sp.), which nest in abandoned rodent burrows, are likely the primary pollinators of *A. desereticus.* Land use practices which increase grazing pressure may cause burrows to collapse, destroying bumblebee nests (Stone 1992). Since bees have low fecundity, their populations may not recover for many years, particularly if grazing by large numbers of ungulates is maintained.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a threat to *Astragalus desereticus.*

C. Disease or Predation

In contrast to many species of *Astragalus, A. desereticus* appears to be palatable to cattle. Many *Astragalus* species concentrate the toxic element selenium in their tissues; these species, called selenophytes, poison grazing cattle (Stone 1992). The fact that *A. desereticus* does not produce a ''snakelike'' odor typical of other ''snakeweeds,'' as selenophytes are sometimes called, and the fact that no other selenophytes occur in the area, indicate that *A. desereticus* is not a selenophyte (Stone 1992). While *A. desereticus* may not be preferred forage for cattle or native ungulates, it is palatable and may be inadvertently taken along with preferred forage in the area.

In habitat similar to that occupied by *Astragalus desereticus* in Utah County that has been surveyed by Service personnel, overgrazing by domestic ungulates has almost completely denuded the landscape (USFWS 1991). Similar grazing pressure has been known from the current habitat of *A. desereticus;* therefore, the effects of grazing, particularly overgrazing, constitute a likely threat. This species is much less abundant in the more heavily grazed southern portion of its habitat (Franklin 1990, 1991), indicating that grazing may be a significant threat. Cattle grazing may be particularly harmful because it occurs during a critical period for *A. desereticus* reproduction (i.e., flowering) (Stone 1992).

There are no known insect parasites or disease organisms that significantly affect this species.

D. The Inadequacy of Existing Regulatory Mechanisms

Astragalus desereticus presently receives no protection or consideration under any Federal, State or local law or regulation.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

By virtue of the limited number of individuals and range of the single remaining population of *Astragalus desereticus*, this species may be threatened with extinction from naturally occurring events. The probability that a natural event such as a fire, drought, or disease will cause extinction is greater for species having a small population size and highly restricted range (Stone 1992). Rare species in the genus *Astragalus* have exhibited low levels of genetic diversity when compared to other more widespread, closely related species (Stone 1992). Low genetic variability may make it difficult for a species to respond to changes in the environment and thus places it at greater risk to extinction or additional range reduction.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Astragalus desereticus* in determining to propose this rule. Grazing and trampling by ungulates, residential development, road widening, and naturally occurring events such as fire variously threaten this species. Based on this evaluation, the preferred action is to list *A. desereticus* as threatened. Threatened status reflects the vulnerability of this species to factors that may negatively affect the species and its limited habitat. While not in immediate danger of extinction, *A. desereticus* is likely to become an endangered species in the foreseeable future if present threats continue or increase. Critical habitat is not being proposed for this species for reasons discussed in the ''Critical Habitat'' section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. The Service determines that designation of critical habitat for

Astragalus desereticus is not prudent due to lack of benefit to the species.

Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency (see Available Conservation Measures section). As such, designation of critical habitat may affect activities on Federal lands and may affect activities on non-Federal lands where such a Federal nexus exists. Under section 7 of the Act, Federal agencies are required to ensure that their actions do not jeopardize the continued existence of a species or result in destruction or adverse modification of critical habitat. However, both jeopardizing the continued existence of a species and adverse modification of critical habitat have similar standards and thus similar thresholds for violation of section 7 of the Act. In fact, biological opinions that conclude that a Federal agency action is likely to adversely modify critical habitat but not jeopardize the species for which the critical habitat has been designated are extremely rare. Also, the designation of critical habitat for the purpose of informing Federal agencies of the locations of *Astragalus desereticus* habitat is not necessary because the Service can inform Federal agencies through other means. For these reasons, the designation of critical habitat for *A. desereticus* would provide no additional benefit to the species beyond that conferred by listing, and therefore, such designation is not prudent.

Astragalus desereticus has an extremely narrow distribution in a sandstone outcrop, totaling about 120 ha (300 ac) in one population. At the present time, no other site is known to be occupied by or suitable for this plant. The private landowners at Birdseye are aware of the plant's presence and extremely limited habitat, as are the DWR managers and others involved in management of the area. Therefore, designation of critical habitat would provide no benefit with respect to notification. In addition, given the species' narrow distribution and precarious status, virtually any conceivable adverse effect to the species' habitat would very likely jeopardize its continued existence. Designation of critical habitat for *A. desereticus* would, therefore, provide no benefit to the species apart from the protection afforded by listing the plant as threatened.

Protection of the habitat of *Astragalus desereticus* will be addressed through the section 4 recovery process and the section 7 consultation process. Although this plant occurs only on private and State land, it may be affected by projects with Federal connections, including potential Federal Highway Administration funding of road widening. The Service believes that activities involving a Federal action which may affect *A. desereticus* can be identified without designating critical habitat, by providing Federal agencies with information on the location of occupied habitat and information on the kinds of activities which could affect the species. For the reasons discussed above, the Service finds that the designation of critical habitat for *A. desereticus* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, State and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The single known population of *Astragalus desereticus* is on State and privately owned land. However, highway widening, which could adversely affect *A. desereticus* due to the proximity of the plants to the highway, could be partially funded by the Federal Highway Administration, thereby providing an avenue for section 7 consultation.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 for threatened plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits malicious damage or destruction on areas under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to this species in the future if such regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical and horticultural exhibition, educational purposes, or special reasons consistent with the Act's purposes. With respect to *Astragalus desereticus,* it is anticipated that few, if any, trade permits would be sought or issued, since the species is not common in the wild and is unknown in cultivation. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable

those activities that would or would not constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within a species' range. This species is not located on areas under Federal jurisdiction. Collection, damage, or destruction of this species on Federal lands is prohibited (although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes). Such activities on areas not under Federal jurisdiction would constitute a violation of section 9 if conducted in knowing violation of State law or regulations, or in violation of State criminal trespass law. Normal highway maintenance, fence maintenance, and recreational hunting are among the activities that would be unlikely to violate section 9. Questions regarding whether specific activities would constitute a violation of section 9, should this species be listed, should be directed to the Field Supervisor, Utah Ecological Services Field Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. In particular, comments are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Astragalus desereticus*;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

A final determination of whether to list this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision document that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests for hearings must be received within 45 days of the date of the publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, Utah Ecological Services Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Utah Ecological Services Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is John L. England, Utah Ecological Services Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.12(h) by adding the following, in alphabetical order under Flowering Plants, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Astragalus desereticus	Deseret milk-vetch	U.S.A. (UT)	Fabaceae	T		NA	NA
*	*	*	*	*	*	*	

Dated: December 30, 1997.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–2012 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[I.D. No. 101097A]

Designated Critical Habitat; Central California Coast and Southern Oregon/ Northern California Coast Coho Salmon

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: NMFS is reopening the public comment period on proposed regulations to designate critical habitat for Central California Coast and Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*). These proposals were made on November 25, 1997, under provisions of the Endangered Species Act of 1973 (ESA). NMFS has received several requests for additional time to complete the review and compilation of information. NMFS finds the requests to be reasonable and hereby reopens the comment period until April 26, 1998.

DATES: Comments on the proposed rule must be received on or before April 26, 1998.

ADDRESSES: Comments should be sent to: Garth Griffin, NMFS, Protected Resources Division, 525 NE Oregon St. - Suite 500, Portland, OR 97232–2737; or Craig Wingert, NMFS, Southwest Region, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Garth Griffin at (503) 231–2005, Craig Wingert at (562) 980–4021, or Joe Blum at (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 1996, NMFS published its determination to list the Central California Coast Evolutionarily Significant Unit (ESU) of coho salmon as threatened under the ESA (61 FR 41514). Subsequently, on May 6, 1997, NMFS published its determination to list the Southern Oregon/Northern California Coast coho salmon ESU as threatened under the ESA (62 FR 24588). On November 25, 1997 (62 FR 62741), NMFS published a proposed rule identifying critical habitat for each ESU and identified a 90-day comment period (which ends January 26, 1998) to solicit information relevant to the proposal. During the comment period, three public hearings were held between December 8–11, 1997 in Gold Beach, Oregon; Eureka, California; and Santa Rosa, California.

Requests for an extension of the public comment period have been received from a California Congressional representative, as well as several county and private organizations and private citizens in northern California and southern Oregon. Reasons given for these requests included additional time required under state law to assemble county governments for a review of the proposal, and time needed to assess the scope and impact of the proposed rule. NMFS finds the requests to be reasonable and hereby reopens the comment period.

Critical habitat is defined as the specific areas within the geographical area occupied by the species, on which are found those physical and biological features essential to the conservation of the species and which may require special management considerations or protections (ESA section 3(5)(A)(I)). Critical habitat shall not include the entire geographical area occupied by the species unless failure to designate such areas would result in the extinction of the species.

Proposed critical habitat for the Central California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between Punta Gorda and the San Lorenzo River (inclusive) in California. Also included are two rivers entering San Francisco Bay: Mill Valley Creek and Corte Madera Creek. Proposed critical habitat for the Southern Oregon/Northern California Coast ESU encompasses accessible reaches of all rivers (including estuarine areas and tributaries) between the Mattole River in California and the Elk River in Oregon, inclusive.

The areas described in the proposed rule represent the current freshwater and estuarine range of the listed species. Marine habitats are also vital to the species and ocean conditions are believed to have a major influence on coho salmon survival. However, there does not appear to be a need for special management consideration or protection of this habitat. Therefore, NMFS is not proposing to designate critical habitat in marine areas at this time. For both ESUs, critical habitat includes all waterways, substrate, and adjacent riparian zones below longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years). NMFS has identified twelve dams in the range of these ESUs (see proposed rule) that currently block access to habitats historically occupied by coho salmon. However, NMFS has not designated these inaccessible areas as critical habitat because areas downstream are believed to be sufficient for the conservation of the ESUs. The economic and other impacts resulting from this critical habitat designation are expected to be minimal.

NMFS is soliciting information, comments and/or recommendations on any aspect of this proposal from all concerned parties (see **ADDRESSES**); comments must be received by April 26, 1998. In particular, NMFS is requesting any data, maps, or reports describing areas that currently or historically supported coho salmon populations and that may require special management considerations. NMFS will consider all information received before reaching a final decision.

Date: January 22, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–2074 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 63, No. 18

Wednesday, January 28, 1998

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

Office of the Secretary

Privacy Act of 1974; Revision of System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Revision of an Existing Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), the Department of Agriculture (USDA) is issuing notice of our intent to amend the system of records entitled the Personnel and Payroll System for USDA Employees, USDA/OP–1, to include a new routine use. The disclosure is required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). We invite public comment on this publication.

DATES: Persons wishing to comment on the proposed routine use must do so by 30 days from date of publication. (February 27, 1998).

EFFECTIVE DATE: The proposed routine use will become effective as proposed without further notice 45 days from date of publication (March 16, 1998), unless comments dictate otherwise.

ADDRESSES: Interested individuals may comment on this publication by writing to Joan Golden, Room 341–W Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW., Washington, DC 20250, by fax to (202) 720–8721, or by email to *joan.golden@usda.gov.* All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Evelyn Davis, Room 43–W Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720–7765, (202) 690–4728 (Fax).

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, USDA will disclose data from its Personnel and Payroll System for USDA Employees system of records to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for use in the National Database of New Hires, part of the Federal Parent Locator Service (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. A description of the Federal Parent Locator Service may be found at 62 FR 51663 (October 2, 1997).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and their employers for purposes of establishing paternity and securing support. On October 1, 1997, the FPLS was expanded to include the National Directory of New Hires, a database containing employment information on employees recently hired, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. On October 1, 1998, the FPLS will be expanded further to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the national Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

When individuals are hired by USDA, we may disclose to the FPLS their names, social security numbers, home addresses, dates of birth, dates of hire, and information identifying us as the employer. We also may disclose to FPLS names, social security numbers, and quarterly earnings of each USDA employee, within one month of the end of the quarterly reporting period.

Information submitted by USDA to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct. The data disclosed by USDA to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

A ''Report on New System,'' required by 5 U.S.C. 552a(o), as implemented by Transmittal Memoranda 1 and 3 to OMB Circular A–108, was sent to the Chairman, Committee on Governmental Affairs, United States Senate, the Chairman, Committee on Government Reform and Oversight, House of Representatives, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on January 22, 1998.

Signed at Washington, DC, on January 22, 1998.

Dan Glickman,

Secretary of Agriculture.

Accordingly, the system notice is amended as follows:

USDA/OP–1

SYSTEM NAME:

Personnel and Payroll System for USDA Employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(26) The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193).

[FR Doc. 98–2051 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–96–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent to Seek Approval to Extend and Revise a Current Information Collection

AGENCY: Cooperative State Research, Education, and Extension 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 44977, August 29, 1995), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request approval to revise and extend a current information collection from applicants for Federal financial assistance.

DATES: Comments on this notice must be received by April 3, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1761. E-mail: OEP@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Title: Application Kit for Research, Education, and Extension Projects.

OMB Number: 0524–0022.

Expiration Date of Current Approval: May 31, 1998.

Type of Request: Intent to seek approval to revise and extend an information collection for three years.

Abstract: USDA/CSREES sponsors ongoing agricultural research, education, and extension programs under which competitive, special, and other awards of a high-priority nature are made. These programs are authorized pursuant to the authorities contained in the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i); Section 1414 of Pub. L. 95–113, ''National Agricultural Research, Extension, and Teaching Policy Act of 1977'' (7 U.S.C. 450i(b)); Sections 1417(b)(1), 1417(b)(4), 1419, 1458A, 1472, 1473D, 1475, and 1480 of Pub. L. 95–113, as amended (7 U.S.C. 3154); Section 9 of Pub. L. 95–592, as amended, 7 U.S.C. 5821, ''Native Latex Commercialization and Economic Development Act of 1978,'' (7 U.S.C. 178); Research and Marketing Act of 1946, as amended (7 U.S.C. 427i, 1624); section 1433 of Pub. L. 97–98, ''National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981''; Section 632 of the Foreign Assistance Act (22 U.S.C. 2392(a)); Pub. L. 100–460; Section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921); Section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by Section 815 of the Federal Agriculture Improvement and Reform Act (FAIR Act) of 1996 (7 U.S.C. 3241); the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 *et seq.*) for the Tribal Colleges Education Equity Grants Program; the Small Business Development Act of 1982, Pub. L. 97–219, as amended (15 U.S.C. 638); Section 25 of the Food Stamp Act of 1977, as amended by Section 401(h) of the FAIR Act of 1996 (Pub. L. 104–127) (7 U.S.C. 2034); Section 793 of the FAIR Act of 1996 (7 U.S.C. 2204(f)).

In addition, formula-funded programs administered by CSREES use one form to provide assurances about their programs. These programs are authorized by the Hatch Act of 1887, as amended (7 U.S.C. 361a–i); the Evans-Allen Cooperative Agricultural Program, Section 1445 of Pub. L. 95–113, the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3222); Section 1433 of Subtitle E (Section 1429–1439), Title XIV of Pub. L. 95–113 (7 U.S.C. 3191–3201, as amended; and the McIntire-Stennis Cooperative Forestry Research Act of October 10, 1962 (16 U.S.C. 582a–582a–7).

Before awards can be made, certain information is required from applicants as part of an overall proposal package. In addition to project summaries, descriptions of the research, extension, or education efforts, literature reviews, curricula vitae of principal investigators/project directors, and other, relevant technical aspects of the proposed project, supporting documentation of an administrative and budgetary nature also must be provided. Because of the nature of the competitive, peer-reviewed process, it is important that information from applicants be available in a standardized format to ensure equitable treatment.

Each year, solicitations are issued requesting proposals for various research, education, and extension areas targeted for support. Applicants submit proposals for these targeted areas following formats outlined in the proposal application guidelines accompanying each program's solicitation. These proposals are evaluated by peer review panels and awarded on a competitive basis.

These programs use forms approved in prior OMB-approved collection of information packages (OMB Nos. 0524–0022 and 0524–0024).

Forms CSREES–661, ''Proposal Cover Page;'' CSREES–55, ''Proposal Budget;'' CSREES–662, ''Assurance Statement(s),'' CSREES–663, ''Current and Pending Support;'' and CSREES–1234, ''National Environmental Policy Act Exclusions'' are mainly used for proposal evaluation and administration purposes. The CSREES–1234 has been approved under a separate CSREES collection (OMB Number 0524–0033 contains the burden hours for all CSREES programs) and is included in the Application Kit so an applicant can provide pertinent information regarding the possible environmental impacts of a proposed project. While some of the information will be used to respond to inquiries from Congress and other government agencies, the forms are not designed to be statistical surveys or data collection instruments. Their completion by potential recipients is a normal part of the application to Federal agencies which support basic and applied science.

The following information will continue to be collected:

Form CSREES–661—*Proposal Cover Page:* Provides names, mailing and electronic addresses, and telephone numbers of principal investigators/project directors and authorized agents of applicant institutions and general information regarding the proposals.

Form CSREES–55—*Proposal Budget:* Provides a breakdown of the purposes for which funds will be spent in the event of an award.

Form CSREES–662—*Assurance Statement(s):* Provides required assurances of compliance with regulations involving the protection of human subjects, animal welfare, and recombinant DNA research. This form is used for competitive, special, and formula-funded projects.

Form CSREES–663—*Current and Pending Support:* Provides information for active and pending projects.

Form CSREES–1234—*National Environmental Policy Act Exclusions:* Allows identification of whether or not the proposal fits one of the exclusions listed for compliance with the National Environmental Policy Act (7 CFR Part 3407). This information has been and will continue to be used in determinations as to whether or not further action is needed to meet the requirements of this Act.

Estimate of Burden: Public reporting burden for this collection of information

is estimated to average five and three-quarter (5¾) hours per response (including one-quarter hour for the CSREES–1234).

Respondents: Non-profit institutions, individuals, business, Federal government, and State, local, or Tribal governments.

Estimated Number of Responses per Form: 8,900. 6,600 complete the entire collection; 2,300 complete only the CSREES–662.

Estimated Total Annual Burden on Respondents: 37,450 hours, broken down by: 19,800 hours for Form CSREES–661 (three hours per 6,600 respondents); 6,600 hours for Form CSREES–55 (one hour per 6,600 respondents); 4,450 hours for Form CSREES–662 (one-half hour per 8,900 respondents); and 6,600 hours for Form CSREES–663 (one hour per 6,600 respondents).

Frequency of Responses: Annually.

Copies of this information collection can be obtained from Suzanne Plimpton, Policy and Program Liaison Staff, CSREES, (202) 401–1302. *E-mail:* OEP@reeusda.gov.

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: Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1761. E-mail: OEP@reeusda.gov. Comments also may be submitted directly to OMB and should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20502.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

Done at Washington, D.C., this day of 21st day of January 1998.

B.H. Robinson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 98–1979 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Housing Service

Rural Business-Cooperative Service

Notice of Request for Extension of Currently Approved Information Collection

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

ACTION: Proposed Collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA), Rural Housing Service (RHS), and the Rural Business-Cooperative Service (RBS) to request an extension of currently approved information collections for four regulations and a form used in support of the FSA Farm Loan Program (FLP) (formerly Farmer Programs of the Farmers Home Administration (FmHA)), two regulations used in support of the RHS Multi-family Housing (MFH) and Community Facilities (CF) loan programs, and one regulation used in support of the RBS Direct Business and Industry loan program. These rules do not involve the loans of the Commodity Credit Corporation (CCC) administered by FSA or the Single Family Housing (SFH) loans of RHS. This renewal does not involve any revisions to the program rules.

DATES: Comments on this notice must be received on or before March 30, 1998 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: For additional information contact Phillip Elder, Senior Loan Officer, USDA, Farm Service Agency, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20013–0523; Telephone (202) 690–4012; Electronic mail: pelder@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Form FmHA 1962–1, Agreement for the Use of Proceeds/Release of Chattel Security.

OMB Control Number: 0560–0171.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: The collection of information on Form FmHA 1962–1 is required by a consent decree executed in relation to Coleman V. Block, 663 F. Supp 1315 (D.N.D. 1987). The former Farmers Home Administration (FmHA) agreed in the consent decree to approve a borrower's planned use of proceeds from the disposition of their chattel security, record any changes to planned use, and record the actual disposition of chattel security for the year of operation. Also, this form is needed to implement Section 335(f) of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1985(f)), which requires release of normal income security to pay essential household and farm operating expenses of the borrower, until the Agency accelerates the loan. Form FmHA 1962–1 provides a uniform method for local Agency loan officers to approve these actions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 20 minutes per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 56,075.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18,505 hours.

Title: 7 CFR 1806–A, Real Property Insurance.

OMB Control Number: 0575–0087.

Expiration Date: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: This regulation is currently shared by FSA and the MFH programs of RHS. This regulation governs the servicing of property insurance on buildings and land securing the interest of RHS or FSA in connection with an FSA FLP Loan or RHS MFH loan. This regulation does not apply to the CF and SFH programs of RHS. The information collections pertain primarily to the verification of insurance on property securing Agency loans. This information collection is submitted by FSA or RHS borrowers to Agency offices. It is necessary to protect the government from losses due to weather, natural disasters, or fire and ensure that the Act's loan making requirements of hazard insurance are met by loan applicants. See §§ 303(c), 312(c), and 321(b) of the Act.

Estimate of Burden: Public reporting burden for this collection of information

is estimated to average 29 minutes per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 20,391.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 9,944 hours.

Title: 7 CFR 1951–L, Servicing Cases Where Unauthorized Loan or Other Assistance Was Received.

OMB Control Number: 0560–0160.

Expiration Date: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: FSA encounters cases where unauthorized assistance was received by a borrower. This assistance may be a loan where the recipient did not meet the eligibility requirements set forth in statute or program regulations, or both, or where the borrower qualified for loan assistance but a lower subsidized interest rate was charged on the loan, resulting in the borrower's receipt of unauthorized interest subsidy benefits. The unauthorized assistance may also be in the form of loan servicing where a borrower received an excessive write-down or write-off of their debt. The information collected under this regulation is provided on a voluntary basis by the borrower, although failure to cooperate to correct loan accounts may result in liquidation of the loan. The information to be collected will primarily be financial data such as amount of income, farm operating expenses, depreciation, crop yields, etc.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 105.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 420 hours.

Title: 7 CFR 1965–A, ''Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.''

OMB Control Number: 0560–0158.

Expiration Date: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: This regulation promulgates provisions of sections 331 and 335 of the Act (7 U.S.C. §§ 1981 and 1985). Section 331, of the Act, in part, authorizes the Secretary of Agriculture to modify, subordinate and release terms of security instruments, leases, contracts, and agreements entered into by FSA. That section also authorizes transfers of security property as the Secretary deems necessary to carry out the purpose of the loan or protect the Government's financial interest. Section 335 of the Act provides servicing authority for real estate security; operation or lease of realty, disposition of property; conveyance of real property interest of the United States; easements; and condemnations. The information collection required by this subpart relates to a program benefit recipient or loan borrower requesting action on security which they own, which was purchased with FSA loan funds, improved with FSA loan funds or has otherwise been mortgaged to the Agency to secure a government loan. The information to be collected will primarily be financial data not already on file, such as borrower asset values.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .42 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 15,263.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,465 hours.

Title: 7 CFR part 1951, subpart F—Analyzing Credit Needs and Graduation of Borrowers.

OMB Control Number: 0575–0093.

Expiration Date: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: This regulation is currently shared by FSA, RHS, and RBS. Section 333 of the Act and § 502 of the Housing Act of 1949, as amended, require the Agencies to graduate their direct loan borrowers to other credit when they are able to do so. Graduation is an integral part of Agency lending, as Government loans are not meant to be extended beyond a borrower's need for subsidized rates or non-market terms. The notes, security instruments, or loan agreements of most borrowers require borrowers to refinance their Agency loans when other credit becomes available at reasonable rates and terms. If a borrower finds other credit is not available at reasonable rates and terms, the Agency will continue to review the borrower for possible graduation at periodic intervals. Also, § 333A(f) of the Act (7 U.S.C. 1983a(f)) requires the Agency to provide a financial prospectus to lenders who may be interested in providing guaranteed and non-guaranteed credit to the FSA's direct farm loan borrowers. The information to be collected to carry out these mandates will primarily be financial data such as amount of income, farm operating expenses, asset values, and liabilities.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.85 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 69,781.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 199,020.

Title: 7 CFR part 1941, Subpart A—Operating Loan Policies, Procedures and Authorizations.

OMB Control Number: 0560–0162.

Expiration Date: March 31, 1998.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: Section 311 of the Act (7 U.S.C. 1941) requires that an applicant for an FSA farm operating loan be a citizen of the United States, possess the legal capacity to incur the loan obligation, have training and experience sufficient to assure reasonable prospects of success in the proposed farm operation, be an operator of not larger than a family farm, be unable to obtain sufficient credit elsewhere, and not have received a direct operating loan in 6 or fewer years. Section 373 of the Act also generally prohibits the Secretary from making or guaranteeing a farm loan to a borrower who has received debt forgiveness on such a loan. The Debt Collection Improvement Act (31 U.S.C. § 3720B(a)) further generally precludes an agency from making a loan to a borrower who to a person who is delinquent on any Federal debt. Also, FSA loan approval officials must determine that adequate security and repayment ability for the loan are available, and that funds are used only for those purposes authorized by law. Reporting requirements to ensure compliance with these eligibility requirements are imposed on the public by regulations set out in 7 CFR part 1941, subpart A.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .21 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 56,170.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 11,673 hours.

Comments

The Agencies are soliciting comments on the burden of all of the above subparts regarding: (a) Whether the 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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (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. These comments should be sent to Phillip Elder, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523.

Copies of the information collections may be obtained from Mr. Elder at the above address. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on January 20, 1998.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

Jan E. Shadburn,

Administrator, Rural Housing Service.

Dayton J. Watkins,

Administrator, Rural Business—Cooperative Service.

[FR Doc. 98–2054 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of Scientists Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Committee of Scientists is scheduled for February 12–13, 1998, in Seattle, Washington. The purpose of the meeting is to discuss planning issues concerning the National Forests in the Pacific Northwest (Washington and Oregon) and Alaska Regions; to meet with representatives from federal, state, and tribal organizations, to share information and ideas about Committee members' assignments; to continue discussions on the scientific principles underlying land and resource management; and to conduct any other Committee business that may arise. The meeting is open to the public.

DATES: The meeting is scheduled for February 12–13 in Seattle, Washington.

ADDRESSES: The meeting will be held at the University Plaza Hotel, 400 NE 45th Street, Seattle, Washington.

Written comments on improving land and resource management planning may be sent to the Committee of Scientists, P.O. Box 2140, Corvallis, OR 97339. Also the Committee may be accessed via the Internet at www.cof.orst.edu./org/scicomm/.

FOR FURTHER INFORMATION CONTACT:

Bob Cunningham, Designated Federal Official to the Committee of Scientists, telephone: 202–205–2494.

SUPPLEMENTARY INFORMATION: On February 12, the Committee of Scientists meeting will begin at 8 a.m. and end at 7 p.m. On February 13, the meeting will begin at 8 a.m. and end at 4 p.m. Citizens may address the Committee, February 12, beginning at 4 p.m., to present ideas on how to improve National Forest System land and resource management planning. Citizens who wish to speak must register at the meeting before 4 p.m. Each speaker will be limited to a maximum of 5 minutes. Persons may also submit written suggestions to the Committee at the meeting or by mail at the addresses listed under the Addresses heading.

The Committee of Scientists is chartered to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest Service on improvements that can be made to the National Forest System land and resource management planning process (62 FR 43691); August 15, 1997). Notice of the names of the appointed Committee members was published December 16, 1997 (62 FR 65795). Agendas and locations for future meetings will be published as separate notices in the **Federal Register**.

Dated: January 22, 1998.

Robert C. Joslin,

Deputy Chief for National Forest System.

[FR Doc. 98–2044 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Willamette PAC Committee will meet on Thursday, February 19, 1998, at the Courtyard By Marriott, 3443 Hutton Street, Springfield, Oregon 97477; phone (541) 726–2121. The PAC Committee meeting is scheduled for 9:00 a.m. to approximately 3:00 p.m. The tentative agenda includes: (1) Riparian Reserves, (2) Update on Province Late-Successional Reserve Assessment, (3) Update from Interagency Advisory Committee Staff, (4) Decision on response to 1997 Monitoring results, and (5) Public Forum.

The public forum is tentatively scheduled to begin at 10:00 a.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged. Written comments may be submitted prior to the meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester, Willamette National Forest, 211 East Seventh Avenue, Eugene, Oregon 97401; (541) 465–6924.

Dated: January 22, 1998.

Herbert L. Wick,

Natural Resources Staff Officer.

[FR Doc. 98–2001 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business—Cooperative Service

Maximum Portion of Guarantee Authority Available for Fiscal Year 1998

AGENCY: Rural Business—Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: As set forth in the final rule under 7 CFR part 4279, subpart B, each fiscal year the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee fee of 1 percent or guaranteed loans with a guarantee percentage exceeding 80 percent.

Allowing the guarantee fee to be reduced to 1 percent or exceeding the 80 percent guarantee on certain guaranteed loans that meet the conditions set forth in subpart B of part 4279 will allow for the targeting of projects in rural communities that remain persistently poor, experience long-term population decline and job deterioration, and other related criteria.

Not more than 7 percent of the Agency quarterly apportioned guarantee authority will be reserved for loan requests with a guarantee fee of 1 percent, and not more than 15 percent of the Agency quarterly apportioned guarantee authority will be reserved for guaranteed loan requests with a guaranteed percentage exceeding 80 percent. Once the above quarterly limits have been reached, all additional loans guaranteed during the remainder of that quarter will require a 2 percent guarantee fee and not exceed an 80 percent guarantee limit.

Written requests by the Rural Development State Office for approval of a guaranteed loan with a 1 percent guarantee fee or a guaranteed loan exceeding 80 percent must be forwarded to the National Office, Attn.: Director, Business Programs Processing Division, for review and consideration prior to obligation of the guaranteed loan. The Administrator will provide a written response to the State Office confirming approval or disapproval of the request.

EFFECTIVE DATE: January 28, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Hennings, Senior Loan Specialist, Business Programs Processing Division, Rural Business—Cooperative Service, USDA, Stop 3221, Washington, DC 20250–3221, telephone (202) 690–3809.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866.

Dated: January 11, 1998.

Dayton J. Watkins,

Administrator.

[FR Doc. 98–2053 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–XY–U

COMMISSION ON CIVIL RIGHTS

Hearing on Police-Community Relations—Sonoma County

AGENCY: Commission on Civil Rights.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1994, Section 3, Public Law 103–419, 108 Stat. 4338, as amended, and 45 CFR 702.3, that a public hearing before a Subcommittee of the U.S. Commission on Civil Rights will commence on Friday, February 20, 1998, beginning at 8:30 a.m., in the Justice Joseph A. Rattigan Building, in Conference Room 410, located at 50 D Street, Santa Rosa, CA 95404.

The purpose of the hearing is to collect information within the jurisdiction of the Commission, under 45 CFR 702.2, related particularly to administration of justice, police-community relations, and the interaction between Federal and local law enforcement agencies in Sonoma County in order to determine underlying causes contributing to allegations of excessive force by policy and other administration of justice officials.

The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2(c). The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: Barbara Brooks, Press and Communications (202) 367–8312.

Dated: January 23, 1998.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–2113 Filed 1–23–98; 4:12 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818, A–489–805]

Certain Pasta From Italy and Turkey: Notice of Extension of Time Limits for Antidumping Duty First Administrative and New Shipper Reviews

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

EFFECTIVE DATE: January 28, 1998.

FOR FURTHER INFORMATION CONTACT: Edward Easton or John Brinkmann, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1777 and (202) 482–5288, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Results

A. First Administrative Reviews

On August 28, 1997, the Department initiated the first administrative reviews of the antidumping duty orders on certain pasta from Italy and Turkey, covering the period January 19, 1996 through June 30, 1997 (62 FR 45621). The current deadline for the preliminary results of these reviews is April 2, 1998. Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) allows the Department to extend this time period to up to 365 days.

We determine that it is not practicable to complete this review within the original time frame because this review involves collecting and analyzing information from a large number of companies and examining allegations of sales below the cost of production for all companies. Although section 751(a)(3)(A) of the Act allows for an extension of up to 120 days, we believe at this time that only a limited extension of the deadline is necessary to analyze the complex legal and methodological issues and coordinate verification of the companies participating in these reviews. Accordingly, the Department is extending the time limit for completion of the preliminary results of these administrative reviews by 90 days, or

until July 1, 1998. We plan to issue the final results of these administrative reviews within 120 days after publication of the preliminary results.

B. New Shipper Review

On August 15, 1997, the Department initiated a new shipper review relating to the antidumping duty order on certain pasta from Italy, covering the period July 1, 1996 through June 30, 1997 (62 FR 44643, August 22, 1997). The current deadline for the preliminary results is February 11, 1998. Section 751(a)(2)(B)(iv) of the Act requires the Department to make a preliminary determination within 180 days after the date on which the new shipper review was initiated. However, if the Department concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days.

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department has determined that this case is extraordinarily complicated given the complex nature of the issues similar to those in the first administrative reviews, including an allegation of sales below the cost of production. In order to analyze the issues specific to this case and to benefit from the analyses of similar issues in the administrative reviews, we are extending the deadline for issuing the preliminary results to no later than June 11, 1998. We plan to issue the final results within 90 days after the date the preliminary results are issued.

These extensions are in accordance with sections 751(a)(2)(B)(iv) and 751(a)(3)(A) of the Act.

Dated: January 22, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–2058 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

City College of New York; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

Docket Number: 97–054. *Applicant:* City College of New York, CUNY, 140th Street and Convent Avenue, Room 165, New York, NY 11235. *Instrument:* Rapid Kinetics Device, Model SFA–20. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* September 9, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–2059 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

National Institutes of Health; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 97–093. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Micromanipulator Microscope, Model MSM. *Manufacturer:* Singer Instrument Co., Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 62288, November 21, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides an optical microscope mounted over a micromanipulator with a videoscreen and camera and a unique optic-fiber dissection needle. A university research laboratory and a manufacturer of similar equipment advised December 23, 1997 that (1) this capability is pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–2060 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Pennsylvania State University at Erie, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–079. *Applicant:* Pennsylvania State University at Erie, Erie, PA 16563–1702. *Instrument:* Thermodynamic Measuring Equipment, Model pvT 100. *Manufacturer:* SWO Polymertechnik GmbH, Germany. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides the capability to perform thermal conductivity and pvT measurements. *Advice received from:* National Institute of Standards and Technology, December 12, 1997.

Docket Number: 97–081. *Applicant:* University of North Carolina at Chapel Hill, Chapel Hill, NC 27599–3255. *Instrument:* X-Ray Diffractometer with Accessory, Model DIP–2020 V. *Manufacturer:* Nonius-Enraf, The Netherlands. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides a large-area, on-line imaging plate detector for x-ray diffraction using 2 sheets at 200 mm. *Advice received from:* Domestic manufacturer of similar equipment, December 12, 1997.

The National Institute of Standards of Technology and a domestic manufacturer of similar equipment

advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–2057 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 97–091. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Upgrade and Replacement Parts for Asphalt Testing Equipment. *Manufacturer:* Industrial Process Controls Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 62287, November 21, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a pneumatically-driven triaxial pressure cell which can monitor the properties of asphalt composites under field conditions at construction sites. A university-based highway research laboratory and the Federal Highway Administration advised December 23, 1997 that (1) this capability is pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–2061 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Worcester Polytechnic Institute, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–089. *Applicant:* Worcester Polytechnic Institute, Worcester, MA 01609. *Instrument:* Fire Modeling Research Apparatus. *Manufacturer:* Fire Testing Technology Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 61092, November 14, 1997. *Reasons:* The foreign instrument provides: (1) anti-vibration mountings on top of the frame and in the test area, (2) a pressure transducer to compensate for atmospheric pressure fluctuations, (3) an enclosed-case housing for the load cell and (4) compatibility with an existing cone calorimeter. *Advice received from:* National Institute of Standards and Technology, December 24, 1997.

Docket Number: 97–092. *Applicant:* University of Wisconsin, Madison, WI 53706. *Instrument:* Flame Ionization Detector System, Model HFR400. *Manufacturer:* Cambustion Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 62287, November 21, 1997. *Reasons:* The foreign instrument provides a time constant of less than 4.0 ms for measuring hydrocarbon emissions during transients of a gasoline engine. *Advice received from:* National Institute of Standards and Technology, December 23, 1997.

The National Institute of Standards and Technology advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–2062 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 97–00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to The Association for the Administration of Rice Quotas, Inc. (''AARQ''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1997).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Semi-milled or wholly milled rice, whether or not polished or glazed (item 1006.30 of the Harmonized Tariff

Schedules (HTS)), and husked (brown) rice (item 1006.20 of the HTS).

Export Markets

Rice for which TRQ awards have been made will be exported to the countries that comprise the European Union. Exports that will serve as a basis for distribution of the proceeds of the TRQ awards will be to the European Union as well as all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operations

1. Purpose. AARQ will manage on an open tender basis the tariff-rate quotas (''TRQs'') for milled and brown rice granted by the European Union (''EU'') to the United States under the U.S.-EU Enlargement Agreement signed July 22, 1996, or any amended or successor agreement providing for EU rice TRQs for the United States and provide for distribution of the proceeds received from the tender process based on exports of milled and brown rice, and rice in the husk (paddy or rough) as set forth below (''the TRQ System'').

2. Implementation.

A. Administrator

AARQ shall contract with a neutral third party Administrator who is not engaged in the production, milling, distribution, or sale of rice, who shall bear responsibility for administering the TRQ System, subject to general oversight and supervision by the Board of Directors of AARQ.

B. Membership

Any person or entity domiciled or incorporated in the United States may become a Member of AARQ upon (i) submission to the Administrator of an application accompanied by evidence that the applicant is a rice mill or has exported U.S. rice from the United States, (ii) execution of the AARQ Operating Agreement, and (iii) in the case of applications received after December 31, 1997, payment of a one-time, nonrefundable fee of $3,000 to AARQ. The fee may be waived for small exporters, as determined by the Board of Directors of AARQ.

C. Open Tender Process; Persons or Entities Eligible To Bid

(a) AARQ shall offer TRQ Certificates for duty-free or reduced-duty shipments of rice to the EU on open tender to the highest bidders. All U.S. TRQ quantities (in metric tons) shall be allocated through the Open Tender Process for such tranches (''TRQ Tranches'') as may be provided for in the relevant EU regulations. The Open Tender Process shall constitute the sole and exclusive mechanism by which AARQ allocates TRQ quantities.

(b) Any person or entity incorporated or domiciled in the United States, whether or not a Member of AARQ, shall be eligible to bid in any Open Tender Process.

D. Notice

The Administrator will publish notice (''Notice'') of each Open Tender Process to be held for the allocation of TRQs for each TRQ Tranche in the Journal of Commerce, and at the discretion of AARQ in other publications of general circulation within the U.S. rice industry. The Notice will invite independent bids and will specify (i) the total amount (in metric tons) of each TRQ to be allocated pursuant to the applicable TRQ Tranche; and (ii) the date on which all bids for TRQ Certificates must be submitted to and received by the Administrator (the ''Bid Date''). The Notice will normally be published not later than 45 days prior to the opening of the TRQ Tranche; if EU decisions on the opening of TRQs or EU regulations necessitate a condensed timetable for notice and bidding, the Administrator will publish the required Notice as promptly as possible after the EU announcements, and will in any event specify a Bid Date that is at least 5 working days after publication of the Notice. The Notice will provide information on how to obtain forms to be used to submit bids. Bids may be submitted by hand delivery or facsimile, and must be received by the Administrator by 5:00 p.m. EST on the Bid Date.

E. Form of Bid; Performance Security

(a) A bid shall be submitted on a form provided by the Administrator and shall state (i) the name, address, telephone, and facsimile or telex number of the bidder; (ii) the form of rice and quantity in metric tons bid, with a minimum bid quantity of twenty (20) metric tons; (iii) the bid price in U.S. dollars per metric ton; and (iv) the total value of the bid.

(b) The bid form shall contain a provision, signed by the bidder, that the bidder agrees that any dispute that may arise relating to the bidding process or the award of TRQ Certificates shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(c) The bidder shall submit with its bid(s) a performance bond, irrevocable letter of credit drawn on a U.S. bank, cashier's check, wire transfer, or equivalent performance security, in a form approved by AARQ and for the benefit of an account designated by the Administrator, in the amount of $50,000 or the total value of its bid(s), whichever is less. Such performance security shall be forfeited if the bidder fails timely to pay for TRQ Certificates awarded to it. At the option of a successful bidder, its performance security may be applied to the price of its successful bid(s), or retained as security for a subsequent Open Tender Process. Any performance security not forfeited, applied to a bid price, or retained as future security shall be returned to the bidder promptly after the close of the Open Tender Process.

(d) The contents of the bids shall be treated by the Administrator as confidential and may be disclosed only to another neutral third party as necessary to ensure the effective operation of the TRQ System; provided, however, that after issuance of all TRQ Certificates in an Open Tender Process, the Administrator shall promptly notify all bidders of and release to the public (i) the total tonnage for which TRQ Certificates were awarded under the milled rice TRQ Tranche and the brown rice TRQ Tranche, respectively, and (ii) the price per metric ton of the lowest successful bid for each TRQ Tranche.

F. TRQ Certificate Awards

(a) Following the close of the bidding period, after having carefully reviewed each apparently high bid to ensure its conformity with applicable requirements, the Administrator shall notify each high bidder that its bid(s) have been determined to be high bid(s). If two or more bidders have submitted identically priced high bids that together cover more than the available tonnage, the Administrator shall divide the award among those bidders in proportion to the quantities of their bids and offer the proportionate shares to each of those bidders. If any of those bidders rejects all or part of the quantity offered, it shall be offered first to the remaining such bidder(s) and then to the next highest bidder.

(b) Promptly after issuance of the notification that its bid is a high bid, a bidder shall pay the full amount of the bid to the Administrator either by certified check or by wire transfer to an account designated by the Administrator. If the bidder fails to pay the full amount of the bid on a timely

basis, the Administrator shall revoke the award, and grant the award to the next highest bidder.

(c) If the total bids received cover less than the tonnage of the relevant TRQ Tranche, the unused portion shall, to the extent consistent with EU regulations, be carried over to a succeeding Tranche. In any Tranche as to which EU regulations prohibit such carry-over, should total bids received cover less than the total tonnage available in the Tranche, the unused portion shall be offered to all successful bidders, in proportion to the size of their respective awards, at the lowest successful bid price.

(d) The full amounts received from successful bidders shall be deposited in an interest-bearing account designated by the Administrator in a financial institution approved by the Board of Directors of AARQ.

G. Delivery of TRQ Certificates

(a) Promptly after receiving the full amount of a successful bid, the Administrator shall transmit to the successful bidder(s) a TRQ Certificate that designates the quantity and form of rice covered by the bid and any known expiration date pursuant to EU regulations.

(b) To facilitate monitoring of shipments of packaged rice pursuant to EU regulations, the TRQ Certificate shall include a space for designation by the exporter of the type of packaging, if any, of the rice covered by the TRQ Certificate.

(c) TRQ Certificates issued to successful bidders shall be freely transferable.

H. Disposition of Tender Proceeds

(a) The proceeds of Open Tender Processes shall be applied and distributed as provided in paragraphs (b) through (g) below.

(b) Operating expenses of AARQ, including legal, accounting, and administrative costs of establishing and operating the TRQ System, shall be paid as incurred from tender proceeds as they become available, pursuant to authorization by the AARQ Board of Directors.

(c) From the remaining proceeds of tenders as soon as available—

(i) The U.S. Rice Industry Coalition for Exports, Inc. (''US RICE'') shall be reimbursed for its documented TRQ-related legal expenses up to $450,000.

(ii) The Rice Millers' Association (''RMA'') shall be reimbursed up to $450,000 (A) for its documented TRQ-related legal and administrative expenses, (B) for payment of up to $100,000 to the Committee for Fair Allocation of Rice Quotas for its documented TRQ-related legal expenses, (C) for payment of up to $25,000 to each former member of RMA's former export trade certificate of review (96–00003) (RMA/ETCR) for its documented third party legal expenses in calendar years 1996 and 1997 in connection with the establishment of an ETC for administration of the TRQs, and (D) for payment of $25,000 to each former member of the RMA/ETCR that documents that it shipped a minimum of 500 metric tons of milled or brown rice to the EU in calendar year 1996 and has not received a distribution under item (C). If there are insufficient funds available to make payments provided for in subparagraphs (c)(ii)(C) and (D), the amount that each former RMA/ETCR member would otherwise be entitled to receive will be reduced by a pro-rata amount so that the total distribution will be equal to the amount available for this purpose.

(d) From the proceeds of tenders in each of the first two years of operations, each Member of AARQ that documents to the Administrator exports of milled or brown rice to Austria, Sweden, or Finland during 1990–1994 shall be paid up to $75 per metric ton of its documented 1990–1994 annual average of such shipments, provided, however, that the total amount paid to all eligible Members under this provision may not exceed $1,800,000 in each of the two years. If $1,800,000 is insufficient to permit payments of $75 per metric ton, the amount that each eligible Member would otherwise be entitled to receive will be reduced pro rata so that the total distribution will be equal to the amount available for this purpose. Any documented costs previously incurred by the RMA in reviewing and analyzing documentation of member shipments to Austria, Finland, or Sweden during 1990–1994 shall be considered a cost of administering the TRQ System, pursuant to paragraph (b) above.

(e) Of the proceeds remaining at the end of each year of operations—

(i) Thirty-nine percent (39%) shall be distributed to Members exporting U.S. paddy, brown, and/or milled rice to the EU based on their percentage shares by volume, adjusted as provided in item (iii) of this subparagraph, of Members' exports to the EU during that year.

(ii) Thirty-nine percent (39%) shall be distributed to Members exporting U.S. paddy, brown, and/or milled rice to all non-EU Export Markets, based on their percentage shares by volume, adjusted as provided in item (iii) of this subparagraph, of Members' non-EU Export Markets exports during that year.

(iii) The computation of Members' exports under this paragraph (e) shall be made on a milled rice equivalent basis using U.S. Department of Agriculture standard equivalency factors.

(f) A year shall be the calendar year, except that if an Open Tender Process occurs in 1997, the first year of operations shall be the period from the date of that tender through December 31, 1998.

(g) Notwithstanding the foregoing provisions of this paragraph, promptly upon implementation of the TRQ System by the EU, the Board of Directors shall consider and may direct distributions during 1998 of proceeds from tenders of a major portion of the TRQ tonnage to be offered in the first year of operations, basing distributions pursuant to paragraph (e) (i) and (ii) on Members' exports during calendar year 1997.

I. Eligibility for Distributions; Submission of Export Documentation

Any Member of AARQ will be eligible to participate in distributions of tender proceeds if: (i) it is a member under the ETCR issued to AARQ by the U.S. Department of Commerce on the date of a distribution or its membership under the ETCR is the subject of an ETCR amendment pending with the Department of Commerce on that date, and (ii) it has timely submitted the required export documentation to the Administrator.

J. Distribution of Tender Proceeds

Within sixty (60) days of the submission of the required documentation for the year or as soon as practicable thereafter, the Administrator shall notify each Member, on a confidential basis, of its percentage share of U.S. rice exports by Members to the EU and/or non-EU destinations, as applicable, for the previous year, and the dollar amount of its distribution. As promptly as possible following such notification, the Administrator shall cause the distributions to be made to eligible Members. If an amendment to include an eligible Member under the ETCR is pending at the Department of Commerce, the Administrator shall cause such Member's distribution to be held for distribution promptly upon issuance of the amendment.

K. Arbitration of Disputes

Any controversy or claim arising out of or relating to the TRQ System or to the AARQ Operating Agreement, or the breach thereof, including *inter alia* a Member's qualification for a distribution, the interpretation of documents, or the distribution itself,

shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Decisions by arbitrators shall not be incorporated by reference in this Certificate of Review. Any change to the Export Trade Activities and Methods of Operation listed in this certificate as a result of arbitration shall not be covered by this Certificate of Review unless certified by an amendment to this Certificate of Review.

L. Confidential Information

Confidential export documentation and any other confidential information submitted to AARQ by an applicant for membership, by a Member in connection with qualifying for a distribution, or by any person in connection with the TRQ System shall be marked ''Confidential'' and submitted to the Administrator, who shall maintain its confidentiality. The Administrator shall not disclose such confidential information to any Member other than the submitter, or to any officers, agents, or employees of any Member other than the submitter, and shall not disclose such confidential information to any other person except to another neutral third party as necessary to make the determination for which the information was submitted, to process distributions, or in connection with the arbitration of a dispute.

M. Annual Reports

In accordance with its Bylaws, AARQ shall publish an annual report, including a statement of the operating expenses and aggregate data on the distribution of proceeds, as reflected in the audited financial statement of the AARQ TRQ System.

3. Cooperation with the U.S. Government and the European Commission. AARQ will provide whatever information and consultations may be useful in order to ensure effective consultations between the U.S. Government and the European Commission concerning the implementation and operation of the TRQ System. In particular, while maintaining the confidentiality of confidential information submitted by bidders and Members, AARQ will provide its annual report, regular reports following the tender for each TRQ Tranche, reports on distributions of tender proceeds, and/or any other information that might be requested by the U.S. Government. Directly or through the U.S. Government, AARQ will endeavor to accommodate any information requests from the Commission (while protecting confidential data), and will consult with the Commission as appropriate.

4. Miscellaneous Implementing Provisions. AARQ and/or its members may (i) meet, discuss and provide for an administrative structure to implement the foregoing tariff rate quota management system, assess its operations and discuss modifications as necessary to improve its workability, (ii) meet, exchange and discuss information regarding the structure and method for implementing the foregoing tariff rate quota management system, (iii) meet, exchange and discuss the types of information needed regarding the bidding process, distribution of the bid proceeds, and past export transactions that are necessary for implementation of the system, (iv) meet, exchange and discuss information concerning U.S. and foreign agreements, legislation and regulations affecting the TRQ management system, (v) and otherwise meet, discuss and exchange information as necessary to implement the activities described above and take the necessary action to implement the foregoing TRQ management system.

Terms and Conditions of Certificate

1. Except as authorized in Paragraphs 2.E(d) and H(c) and (d) of the Export Trade Activities and Methods of Operation, in engaging in Export Trade Activities and Methods of Operation, neither AARQ, the Administrator, any Member, nor any neutral third party shall intentionally disclose, directly or indirectly, to any Member (including parent companies, subsidiaries, or other entities related to any Member) any information regarding any other Member's costs, production, inventories, domestic prices, domestic sales, capacity to produce Products for domestic sale, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless such information is already generally available to the trade or public.

2. AARQ and its Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Definition

Neutral third party, as used in this Certificate of Review, means a party not otherwise associated with AARQ or any of its Members and who is not engaged in the production, milling, distribution, or sale of rice.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Members (in addition to applicant): Affiliated Rice Milling, Inc., Alvin, Texas; American Rice, Inc., Houston, Texas; Brinkley Rice Milling Company, Brinkley, Arkansas; Broussard Rice Mill, Inc., Mermentau, Louisiana; Busch Agricultural Resources, Inc., St. Louis, Missouri; Cargill, Inc. for the activities of its division, Cargill Rice Milling, Greenville, Mississippi; Connell Rice & Sugar Co., Westfield, New Jersey; Continental Grain Company, New York, New York; El Campo Rice Milling Company, Louise, Texas; Farmers' Rice Cooperative, Sacramento, California; Farmers Rice Milling Company, Inc., Lake Charles, Louisiana; Gulf Rice Milling, Inc., Houston, Texas; Liberty Rice Mill, Inc., Kaplan, Louisiana; Louis Dreyfus Corporation, Wilton, Connecticut; Newfield Partners Ltd., Miami, Florida; Producers Rice Mill, Inc., Stuttgart, Arkansas; Riceland Foods, Inc., Stuttgart, Arkansas; RiceTec, Inc., Alvin, Texas; Riviana Foods, Inc., Houston, Texas; SunWest Foods, Inc., Davis, California; Supreme Rice Mill, Inc., Crowley, Louisiana; The Rice Company, Roseville, California; and Uncle Ben's, Inc., Houston, Texas.

Protection Provided by Certificate

This Certificate protects AARQ, its Members, and directors, officers, and employees acting on behalf of AARQ and its Members from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits AARQ and its Members from engaging

in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to AARQ by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of AARQ or its Members or (b) the legality of such business plans of AARQ or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 Fed. Reg. 1786 (January 11, 1985).

In accordance with the authority granted under the Act and Regulations, this Certificate of Review is hereby granted to Association for the Administration of Rice Quotas, Inc.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: January 22, 1998.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 98–2056 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Jessie W. Taylor From an Objection by South Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On December 30, 1997, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Mr. Jessie W. Taylor (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to fill wetlands to construct a commercial business on the property. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with the State's federally approved Coastal Management Program (CMP). The State of South Carolina's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On March 11, 1996, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed project is not consistent with the enforceable policies contained in the State's coastal management program. State policies prevented OCRM from considering the Appellant's offer of mitigation in evaluating his activity. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the State's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the State and interested Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121: First, the proposed project furthers one or more of the competing national objectives or purposes of the CZMA by minimally contributing to the national interest in economic development of the coastal zone. Second, the proposed project, including the Appellant's mitigation measure, would lessen rather than increase cumulative impacts on the natural resources of the coastal zone. Thus, there would appear to be no adverse coastal effects to outweigh the projects minimal contribution to the national interest. Third, the proposed activity will not violate the requirements of the Clean Water Act or the Clean Air Act. Fourth, there would be no reasonable alternative available to the Appellant that would permit the activity to be conducted in a manner consistent with the State's coastal management program. Accordingly, the proposed project is consistent with the objectives or purposes of the CZMA. Because the Appellant's proposed project satisfied all of the requirements of Ground I, the Secretary overrode the State's objection to the Appellant's consistency certification. Consequently, the proposed project may be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713–2967.

Dated: January 16, 1998.

Monica Medina,

General Counsel.

[FR Doc. 98–2035 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012098B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in February, 1998, to consider actions affecting New England fisheries in the exclusive economic zone. Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between February 10 and February 24, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Peabody, MA; East Boston, MA; Warwick, RI, and Portsmouth, NH. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (781) 231-0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, February 10, 1998, 9:30 a.m.—Groundfish Committee Meeting

Location: Peabody Marriott Hotel, 8A Centennial Drive, Peabody, MA 01960; telephone: (978) 977–9700.

Groundfish Advisory Panel and Plan Development Team reports on a proposal to protect Gulf of Maine cod submitted by the Gulf of Maine Fishermen's Alliance; review of overfishing definitions, stock status, and effort reduction requirements to meet the Sustainable Fisheries Act requirements; development of related management options where appropriate.

Tuesday, February 10, 1998, 10 a.m.—Joint New England Fishery Management Council Herring Committee and Atlantic States Marine Fisheries Commission Herring Section Meeting

Location: Holiday Inn, One Newbury Street (Route 1), Peabody, MA 01960; telephone: (978) 535-4600.

Further development of management measures for inclusion in a Herring Fishery Management Plan (FMP) public hearing document.

Wednesday and Thursday, February 11-12, 1998, 9:30 a.m.—Monkfish Committee Meeting

Location: Airport Holiday Inn, 225 McClellan Highway, East Boston, MA 02128; telephone: (617) 569-5250.

Development of recommendations for final management measures; review of draft submission documents for Amendment 9 to the Northeast Multispecies FMP.

Thursday, February 12, 1998, 9:30 a.m.—Joint Habitat Committee and Advisory Panel Meeting

Location: Holiday Inn, One Newbury Street (Route 1), Peabody, MA 01960; telephone: (978) 535-4600.

Further development of essential fish habitat designations for Council-managed species.

Wednesday, February 18, 1998, 8:30 a.m.—Scallop Committee Meeting

Location: Radisson Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739-3000.

Development of management measures to address the requirement of the Sustainable Fisheries Act concerning overfishing; development of objectives for an open/closed area management program; development framework adjustments to the Multispecies and Scallop FMPs to open the areas of Georges Bank now closed to scallop fishing for groundfish conservation purposes.

Monday, February 23, 1998, 10 a.m.—Interspecies Committee Advisory Panel Meeting

Location: Holiday Inn, One Newbury Street (Route 1), Peabody, MA 01960; telephone: (978) 535-4600.

Discussion of long-range management strategies; update on efforts to eliminate inconsistencies in vessel upgrading provisions; development of policy statement concerning the introduction of fish harvesting innovations and new fisheries technology.

Tuesday, February 24, 1998, 10 a.m.—Interspecies Committee Meeting

Location: Sheraton Portsmouth, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431-2300.

Same agenda as Advisory Panel meeting listed above.

Although other issues not contained in these agendas may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in the agendas listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting dates. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone: (781) 231-0422.

Dated: January 23, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–2242 Filed 1-26-98; 3:07 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011398A]

Marine Mammals; Scientific Research Permit No. 550–1441 (File No. P36D)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Bernd Wursig, Director, Marine Mammal Research Program, Texas A&M University, 4700 Avenue U/Building 303, Galveston, Texas 77551, has been issued a permit to take Atlantic bottlenose dolphins (*Tursiops truncatus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,

1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Regional Office, NMFS, NOAA, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5301).

SUPPLEMENTARY INFORMATION: On October 29, 1997, notice was published in the **Federal Register** (62 FR 56151), that the above-named applicant had submitted a request for a scientific research permit to harass bottlenose dolphins during the course of: (1) photo-identification and boat-based behavioral studies; (2) biopsy sampling of 100 individuals for genetic and contaminant studies; and (3) acoustic playback experiments to test the behavioral reaction of the dolphins to ''pingers'' used to deter marine mammal entanglement in commercial fishing gear. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Dated: January 21, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–2075 Filed 1–27–98; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: 10:00 a.m., Thursday, February 5, 1998.

LOCATION: Room 420, East-West Towers, 4330 East-West Highway, Bethesda, Maryland.

(Previously scheduled for Wednesday, January 28, 1998)

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bicycle Helmets: The Commission will consider options for a final safety standard for bicycle helmets.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: January 26, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–2280 Filed 1–26–98; 3:41 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: 2:00 p.m., Thursday, February 5, 1998.

LOCATION: Room 410, East-West Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report: The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: January 26, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–2281 Filed 1–26–98; 3:41 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Air Force ROTC College Scholarship Application; AF Form 113; OMB Number 0701–0101.

Type of Request: Extension.

Number of Respondents: 11,000.

Responses Per Respondent: 1.

Annual Responses: 11,000.

Average Burden Per Response: 42 minutes.

Annual Burden Hours: 7,700.

Needs and Uses: Respondents are high school students or graduates between the ages of 16 and 21 years. Respondents must complete all requirements listed in the application package and return before the final deadline of December 1. Due to the number of factors that have proven to influence successful completion of a college program, it is necessary to collect information in all areas listed on the application. Additionally, the national average attrition from college is about 40 percent. In order to obtain a reasonable return for the dollars expended on scholarships, we must apply as comprehensive an evaluation of each candidate as possible. Without this screening process, the consequences to this federal program would be wasted dollars on individuals who left the program prior to incurring an obligation to serve in the military. In addition to the concern for the economy of scholarship dollars, Congressional oversight of the program demands that the Services be able to report on the numbers and kinds of individuals who apply for scholarships and provide leads for AFROTC units around the nation.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 22, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–1954 Filed 1–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

List of Institutions of Higher Education Ineligible for Federal Funds

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This document is published to identify institutions of higher education that are ineligible for contracts and grants by reason of a determination by the Secretary of Defense that the institution prevents military recruiter access to the campus or students or maintains a policy against ROTC. It also implements the requirements set forth in the Omnibus Consolidated Appropriations Act of 1997 and 32 CFR Part 216.

Recently, American University reported modifications to policies of its Washington College of Law sufficient to merit removal of that college from the list of ineligible schools. Currently, no institution of higher education is ineligible for contracts of grants under the aforementioned law and policy.

ADDRESSES: Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: William J. Carr, (703) 697–8444.

SUPPLEMENTARY INFORMATION: On April 8, 1997 (62 FR 16691), the Department of Defense published 32 CFR part 216 as an interim rule. This rule requires that the Department of Defense semi-annually publish a list of the institutions of higher education ineligible for Federal funds due to a policy or practice that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy. On December 9, 1997 (62 FR 64813), the Department of Defense published a list of the institutions of higher education ineligible for Federal funding; this notice updates and supersedes that listing.

Dated: January 22, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1952 Filed 1–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Public Law 95–202 and Department of Defense Directive (DoDD) 1000.20 ''Chamorros, Including the Chamorro Marine Scouts, Who Assisted the U.S. Marines in the Offensive Operations Against the Japanese on the Saipan, Pagan, and Maug Islands, of the Northern Mariana Islands, From June 19, 1944, Through September 2, 1945

Under the provisions of section 401, Public Law 95–202 and DoD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group know as: ''Chamorros, including the Chamorro Marine Scouts, who assisted the U.S. Marines in the offensive operations against the Japanese on the Saipan, Pagan, and Maug Islands, of the Northern Mariana Islands, from June 19, 1944, through September 2, 1945.'' Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DoD Civilian/Military Service Review Board, 1535 Command Drive, EE–Wing, 3rd Floor, Andrews Air Force Base, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–2027 Filed 1–27–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Public Law 95–202 and Department of Defense Directive (DoDD) 1000.20 ''The Operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, Which Served Overseas With the U.S. Army Air Corps From December 7, 1941 Through August 15, 1945''

Under the provisions of section 401, Public Law 95–202 and DoD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: ''The Operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps from December 7, 1941 through August 15, 1945.'' Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DoD Civilian/Military Service Review Board, 1535 Command Drive, EE-Wing, 3rd Floor, Andrews Air Force Base, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–2029 Filed 1–27–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Going To Space Kick Off Meeting in support of the HQ USAF Scientific Advisory Board will meet at ANSER, Arlington, VA on February 12–13, 1998, from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefings for the 1998 Summer Study.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–2028 Filed 1–27–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a 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 the 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.

DATES: Consideration will be given to all comments received by March 30, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: MTOP–T–S (Barbara Cornell). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: 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 Department of the Army Reports clearance officer at (703) 614–0454.

Title: Tender of Service and Letter of Intent for Personal Property, Household Goods and Unaccompanied Baggage Shipments, OMB Control Number 0702–0022, DD Form 619.

Needs and Uses: The Tender of Service is the carrier's certification that they will conduct business with DoD IAW the Tender of Service, solicitations, and other instructions, as published. The DD Form 619 is a receipt for goods/services provided by the carrier. The Tender of Service specifies the terms and conditions of participation in the DOD personal property program, and provides details concerning service and performance requirements, and certifications.

Affected Public: Business or other for profit.

Annual Burden Hours: 64,118.

Number of Respondents: 2,404.

Responses Per Respondent: 619.

Average Burden Per Response: 1.22 hrs for Tender of Service and 5 minutes for DD 619.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Since household goods move at government expense, data is needed to choose the best service at least cost. The information provided serves as a bid for contract to transport household goods and unaccompanied baggage. The best service for least cost carrier receives the contract.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–2005 Filed 1–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a 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 the 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.

DATES: Consideration will be given to all comments received by March 30, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: MTOP–T–P (Carol Burgess). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: 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 Department of the Army Reports clearance officer at (703) 614–0454.

Title: Uniform Tender of Rates and/or Charges for Domestic Transportation Services (DOD/USCG) Sponsored HHG, OMB Control Number 0702–0018, Form Number MT–HQ–43.

Needs and Uses: DOD-approved household goods carriers file voluntary rates to engage in the movement of DOD and USCG-sponsored shipments within CONUS. The Uniform Tender of Rates and/or Charges for Domestic Transportation Services is carriers' certification that they will conduct business with DOD IAW Tender of Service, solicitations, and other instructions, as published. HQ MTMC evaluates the rates and awards traffic to low-rate responsible carriers whose rates are responsive and most advantageous to the government.

Affected Public: Business or other for profit.

Annual Burden Hours: 2,701.

Number of Respondents: 1,268.

Responses Per Respondent: 4.

Average Burden Per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The Uniform Tender of Rates and/or Charges is used by transportation carriers to bid rates in response to MTMC solicitations, and carriers use the tender to solicit DOD's business by offering transportation rates and services.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–2006 Filed 1–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a 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 the 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.

DATES: Consideration will be given to all comments received by March 30, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: MTOP–OP (Harris Yeager). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: 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 Department of the Army Reports clearance officer at (703) 614–0454.

Title: Signature and Tally Records, OMB Control Number 0702–0027, DD Form Number 1907.

Needs and Uses: Signature and Tally Record (STR) is an integral part of the Defense Transportation System and is used for commercial movements of all sensitive and classified material. The STR provides continuous responsibility for the custody of shipments in transit and requires each person responsible for the proper handling of the cargo to sign their name at the time they assume responsibility for the shipment, from point of origin and at specified stages until delivery at destination. When two drivers are used, both drivers will sign the form when the pair assume responsibility for the shipment.

Affected Public: Business or other for profit.

Annual Burden Hours: 5,000.

Number of Respondents: 200.

Responses Per Respondent: 500.

Average Burden Per Response: 3 minutes.

Frequency: As required.

SUPPLEMENTARY INFORMATION: The designation transportation officer uses the DD Form 1907 to assure that the carriers utilize the STR and provide the transportation service as requested by origin shipper. A copy of the STR, along with other transportation documentation, is forwarded by the carrier to the appropriate finance center for payment. The DD Form 1907 verifies the protected service requested in the

Government Bill of Lading was provided.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–2007 Filed 1–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Action of 1995, the Department of the Army announces a 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 the 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.

DATES: Consideration will be given to all comments received by March 30, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: MTOP–T–S (Barbara Cornell). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: 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 Department of the Army Reports clearance officer at (703) 614–0454.

Title: DOD Standard Tender of Freight Services, OMB Control Number 0704–0261, Form Number MT 364–R.

Needs and Uses: The information derived from the DOD tenders on file with MTMC is used by MTMC subordinate commands and DOD shippers to select the lowest cost carrier to transport about 1.2 million surface freight shipments annually. This information is also used to develop about 140,000 procurement rate quotations annually. Additionally, DOD tender rate and other pertinent tender data are noted on the Government Bill of Lading at the time of shipment. The DOD tender also is the source document for the General Services Administration post-shipment audit of carrier freight bills.

Affected Public: Business or other for profit.

Annual Burden Hours: 9,682.

Nubmer of Respondents: 993.

Responses Per Respondent: 13.

Average Burden Per Response: 45 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The DOD Standard Tender of Freight Services collection of information is used to determine freight transportation charges, accessorial and security service costs, and to select carriers for 1.2 million Global bill of lading (GBL) freight shipments annually.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–2008 Filed 1–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Non-Lethal Munition for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to a novel non-lethal munition as described in the U.S. Army Research Laboratory patent docket #ARL 98–3 and a subsequent patent application to the U.S. Patent and Trademark Office. A licensing meeting is scheduled for Thursday, 2 April 1998, at Aberdeen Proving Ground, MD. Visit http://www.fedlabs.org/flc/ma/pl for technical and registration information. A non-disclosure agreement *must* be signed prior to attending the licensing meeting. Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 434, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–2004 Filed 1–27–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 30, 1998. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before March 30, 1998.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708-9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 22, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Performance Report and Report to the Secretary Under the Infants and Toddlers with Disabilities Program (Part H, Individuals with Disabilities Education Act (IDEA)).

Abstract: The State Interagency Coordinating Counsel in each State is required to submit an Annual Report to the Secretary on the status of the Early Intervention Program operated within the State for infants and toddlers with disabilities and their families. States are required to submit a performance report in accordance with CFR § 80.40. This collection serves both functions.

Additional Information: Part H of IDEA requires States to prepare and submit an annual report to the Secretary on the status of early intervention programs for infants and toddlers with disabilities which they operated within the State.

Since the Secretary cannot waive the statutory requirement, it is necessary that we immediately seek an emergency review. The collection is for the period July 1, 1996 through September 30, 1997.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 54.

Burden Hours: 810.

[FR Doc. 98–1990 Filed 1–27–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 27, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 22, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Application for the Upward Bound and Upward Bound Math and Science Centers Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 1,500.

Burden Hours: 51,000.

Abstract: The application form is needed to conduct a national competition for program year 98–99 for the Upward Bound and Upward Bound Math and Science Centers. These applications provide federal financial assistance in the form of grants to institutions of higher education, public and private agencies and organizations,

combinations of institutions and agencies, and in exceptional cases, secondary schools to establish and operate projects designed to generate skills and motivation necessary for success in education beyond secondary school. The Math and Science Centers provide an intensive six-week summer math-science curriculum program.

Office of Vocational and Adult Education

Type of Review: Reinstatement.
Title: Application for Vocational Education Direct Grants.
Frequency: Annually.
Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 200.
Burden Hours: 18,000.
Abstract: This form will be used by applicants to apply for funding under the Carl D. Perkins Vocational and Applied Technology Education Act administered by the Office of Vocational and Adult Education. The information will be used to make grants and cooperative agreements.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 98–1991 Filed 1–27–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA No.: 84.234N]

Projects With Industry

Notice reopening the closing date for transmittal of applications for new awards for fiscal year (FY) 1998.

Deadline for Transmittal of Applications: The deadline date for transmittal of applications is reopened from January 13, 1998, to April 21, 1998.

On October 30, 1997, the Secretary published in the **Federal Register** (62 FR 58725) a notice inviting applications for new awards for fiscal year 1998 under the Projects With Industry program.

The purpose of this notice is to reopen the deadline date for transmittal of applications. This action is taken because a Department World Wide Web site inadvertently contained the fiscal year 1997, and not the fiscal year 1998, application kit and fiscal year 1998 notice inviting applications for new awards under the Projects With Industry program. The Department discontinued public access to the fiscal year 1997 application kit and notice on January 8, 1998, but applicants who visited the World Wide Web site prior to that date may have downloaded and mistakenly used the fiscal year 1997 application kit to prepare for the fiscal year 1998 competition. Applicants must use the fiscal year 1998 application kit for the fiscal year 1998 competition.

Deadline for Intergovernmental Review: June 20, 1998.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3317, Switzer Building, Washington, D.C. 20202–2649. Telephone: (202) 205–8351. The preferred method for requesting applications is to FAX your request to (202) 205–8717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Martha Muskie, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3320, Switzer Building, Washington, D.C. 20202–2740. Telephone: (202) 205-3293.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to this Document: Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:
http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 795g.

Dated: January 22, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–2079 Filed 1–27–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Act), the Department of Education (Department) publishes this notice of proposed alterations to its system of records for the Investigatory Material Compiled for Personnel Security and Suitability Purposes for the Office of Inspector General (OIG)—18–10–0002. These alterations serve to update the system of records to reflect current administrative and related procedures, implementation of computer database technology, organizational restructuring, clarification and expanded language to provide greater detail and description applicable to the system of records, and proposed new and revised routine uses of the information contained in this system of records. Because the routine uses have been revised or expanded, the Department requests comment regarding the proposed routine uses contained in this notice.

DATES: Comments on the proposed routine uses of this system of records must be received by the Department on or before February 27, 1998. The Department filed a report on the altered system of records with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on January 23, 1998. This altered system of records will become effective after the 30-day period for

OMB review of the system expires on February 22, 1998, unless OMB gives specific notice within the 30 days that the system is not approved for implementation or requests an additional 10 days for its review. The new and revised routine uses become effective 30 days after publication unless they need to be changed as a result of public comment. The Department will publish any changes to the routine uses that are required as a result of the comments.

ADDRESSES: All comments on the proposed routine uses should be addressed to the Deputy Inspector General, U.S. Department of Education, 600 Independence Avenue, SW., 4022 MES, Washington, DC 20202–1510. Comments may also be sent through the Internet to: Comments@ed.gov

You must include the term ''Security Notice'' in the subject line of the electronic comment.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4022 Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sandra H. Warren, Security Officer, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, SW., 4022 MES, Washington, DC 20202–1510. Telephone: (202) 205–5400. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

General

The Act (5 U.S.C. 552a)(e)(4) requires the Department to publish in the **Federal Register** this notice of an altered system of records. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b. A system of records is considered altered whenever an agency changes the way it retrieves records, expands the types or categories of information, or revises its routine uses for information contained in the system. This system notice has not been updated since its publication in the **Federal Register** on April 20, 1982. As a result, revisions are needed to accurately describe the current system of records that maintains investigatory material on current and former Department employees, individuals who have applied for employment with the Department, and other individuals doing business with the Department.

The records in this system are maintained to provide the Inspector General and other responsible Department of Education (Department) officials with information to assist them in making individual personnel determinations concerning suitability for Federal employment, security clearances, access to classified information or restricted areas, and evaluations as to suitability for performance under Federal contracts or other agreements with the Federal Government. For those investigations conducted by the Office of Inspector General, these records may also be disclosed to other Federal and non-Federal investigatory agencies to protect the public or Federal interest, or both.

The revisions in this system notice change the name of the system manager and add additional system locations; update the authority for the maintenance of the system; provide a detailed description of the nature of the security investigation case files; revise and clarify the purpose of the system; expand the categories of individuals covered by the system to include people seeking association with the Department under Federal contracts or other agreements as well as individuals seeking employment or retention with the Department; revise and expand the routine use disclosures to provide for the disclosure of information to contractors, grantees, experts, consultants, or volunteers performing or working on a contract, grant, or service for the Department and with respect to litigation-related disclosures and for purposes relating to the Freedom of Information Act; and disclosures to specified intelligence agencies of the Federal Government for use in intelligence or investigation activities. This notice also revises the manner in which the records are stored, retrieved, and safeguarded with regard to the use of computer database technology; clarifies the retention and disposal period for records maintained in the system; and expands the notification procedures to assist the system manager in the identification of requested information contained in the system of records.

Direct access is restricted to authorized agency staff in the performance of their official duties. Due to the extensive revisions in this notice, it is being published in its entirety.

Dated: January 23, 1998.

Thomas R. Bloom,

Inspector General.

The Office of Inspector General of the U.S. Department of Education publishes notice of an altered system of records as follows:

18–10–0002

SYSTEM NAME:

Investigatory Material Compiled for Personnel Security and Suitability Purposes—ED/OIG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Security Program Staff, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–1510.

U.S. Office of Personnel Management, Investigations Group, P.O. Box 886, Washington, DC 20044–0886.

Washington National Records Center, Suitland, MD 20746–2042.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants seeking employment with the Department of Education (Department), former and current employees of, and other persons and entities doing business with, the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information pertaining to current and former Department employees, current and former contractor personnel, and current employees of entities making offers to the Department for purposes of doing business. This information regards individuals' character, conduct, and loyalty to the United States as relevant to their association with the Department. These records may, as appropriate to the individual being investigated, include the following types of information: (1) Documentation as to his or her arrests and convictions for violations of the law. (2) Reporting as to interviews held with the individual, his or her present and former supervisors, co-workers, associates, neighbors, educators, etc. (3) Correspondence relating to adjudication matters involving the individual. (4) Reports of inquiries made of law enforcement agencies for information about the individual contained in the agencies' records. (5) Information provided by organizations having association with the individual, such as employers, educational institutions attended, professional or fraternal or social organizations to which the individual is or was a member, etc. (6) Reports of action following an Office of Personnel Management (OPM) investigation or a Federal Bureau of Investigation Section 8(d) full field investigation. (7) Other information developed from the previous sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450, 10577, and 12968; as amended.

PURPOSE(S):

Records in this system are maintained to provide the Inspector General and other responsible Department officials with information to assist them in making individual personnel determinations concerning suitability for Federal employment, security clearances, access to classified information or restricted areas, and evaluations as to suitability for performance under Federal contracts or other agreements with the Federal Government. Incidental to this purpose, for those investigations conducted by the OIG, these records may also be disclosed to other Federal and non-Federal investigatory agencies to protect the public or Federal interest, or both.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records may be disclosed as a routine use in the following instances:

1. To public or private sources to the extent necessary to obtain information to be included in this system of records.

2. To officials and employees of a Federal, State, or local governmental entity in response to its request in connection with the issuance of security clearances or the conduct of security or suitability investigations of individuals seeking employment, licensure, other benefits, or to perform contractual services, or to otherwise associate with the governmental entity.

3. To a Federal, State, local, or foreign entity or other public authority responsible for the investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, when a record on its face or in combination with any other information indicates a violation or potential violation of law (whether civil, criminal, or regulatory in nature) if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity. It is OIG policy not to disclose records under this routine use that pertain to those questions for which the OIG has promised confidentiality under Standard Form 85P, ''Questionnaire for Public Trust Positions.''

4. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, grant, service, or job for the Department or under a Department program.

5. To parties pertaining to litigation disclosure as follows:

a. In the event that one of the following parties is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in the following paragraphs b, c, and d of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any employee of the Department in his or her official capacity where the Department of Justice (Justice) has agreed to provide or arrange for representation of the employee.

(iv) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

b. If the Department determines that disclosure of certain records to the Department of Justice (DOJ) or attorneys engaged by DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to DOJ.

c. If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual, or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

d. If the Department determines that disclosure of certain records to an opposing counsel, representative, or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative, or witness.

6. To the Department of Justice for the purpose of obtaining advice regarding the releasability of records maintained in this system of records under the Freedom of Information Act and the Privacy Act of 1974.

7. To a Member of Congress in response to an inquiry from that member made at the written request of the individual about whom the information pertains; however, the congressional member's right to the information is no greater than the right of the individual who requested it.

8. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence or investigation activities.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders secured in fire resistant safes with manipulation proof combination locks, or in metal lock-bar file cabinets with three position combination locks, and in a computer database.

RETRIEVABILITY:

Records are alphabetically indexed by name of the individual subject of the file. Retrieval is made by the name, date of birth, and social security number of the individual on whom they are maintained.

SAFEGUARDS:

Folders are maintained and secured in fire resistant safes with manipulation proof combination locks, or in metal file cabinets secured by three position combination locks. All records, including those records that are maintained on the computer database, are in limited access rooms with keyless cipher locks. All employees are required to have an appropriate security clearance before they are allowed access, on a need-to-know basis, to the records. Computer databases are kept on a local area network that is not connected to any outside network including the Internet. Database accessibility is restricted to hard wire network connection from within the office or via modem. Authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources. All users have unique log-on codes and passwords. The password scheme requires that users must change passwords every 90 days and may not repeat the old password. Any individual attempting to log on who fails is locked out of the system after three attempts. Access after that time requires intervention by the system manager.

RETENTION AND DISPOSAL:

Most background investigative records are maintained for five years after the individual separates from his or her departmental association if subject to Executive Orders 12968 and 10450, as amended. Reports of background investigations conducted by the Office of Inspector General are retained for 15 years, plus the current year of the most recent investigative activity, in accordance with OPM guidance. The records are disposed of by electronic erasure, shredding, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, SW, Washington, DC 20202–1510.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual must provide the system manager with his or her name, date of birth, social security number, signature, and the address to which the record information should be sent. Requests for notification about an individual must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.5.

RECORD ACCESS PROCEDURE:

If an individual wishes to gain access to a record in this system, he or she must contact the system manager and provide information as described in the notification procedure.

CONTESTING RECORD PROCEDURE:

If an individual wishes to change the content of a record in the system of records, he or she must contact the system manager with the information described in the notification procedure, identify the specific item or items to be changed, and provide a written justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from—

a. Investigative and other record material furnished by other Federal entities, other departmental components, State, local, and foreign governments;

b. Applications and other personnel and security forms;

c. Personal investigation, written inquiry, interview, or the electronic accessing of computer databases of sources, such as the OPM system of records known as ''Personnel Investigations Records'' (OPM/Central-9), employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and

d. Confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

As indicated in 34 CFR 5b.11, individuals will be provided information from this record system unless, in accordance with the provisions of 5 U.S.C. 552a(k)(5)—(1) Disclosure of that information would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence; or (2) The information was obtained prior to September 27, 1975 and disclosure of that information would reveal the identity of a source who provided information under an implied promise that the identity of the source would be held in confidence.

[FR Doc. 98–2077 Filed 1–27–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–172]

Application To Export Electric Energy; the Power Company of America, L.P.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Power Company of America, L.P. (PCA), a power marketer, has submitted an application to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before February 27, 1998.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On January 15, 1998, PCA applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Canada, as a power marketer, pursuant to section 202(e) of the FPA. Specifically, PCA has proposed to transmit to Canada electric energy purchased from electric utilities and other suppliers within the U.S.

PCA would arrange for the exported energy to be transmitted to Canada over the international transmission facilities

owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. Each of these transmission facilities, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions, comments and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with Stephen C. Smith, President, The Power Company of America, Two Greenwich Plaza, Greenwich, CT 06830 and Lynn H. Hargis, Robert F. Shapiro, Chadbourne & Parke LLP, 1200 New Hampshire Ave., N.W., Suite 300, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on January 23, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 98–2046 Filed 1–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Record of Decision on the Disposal of the S3G and D1G Prototype Reactor Plants

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: This Record of Decision has been prepared on the Disposal of the S3G and D1G Prototype Reactor Plants, located at the Knolls Atomic Power Laboratory Kesselring Site (Kesselring Site) near West Milton, New York, pursuant to Section 102(2) of the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*), and in accordance with the Council on Environmental Quality regulations implementing NEPA procedures (40 CFR parts 1500–1508), and Department of Energy (DOE) regulations implementing NEPA procedures (10 CFR part 1021). The DOE Office of Naval Reactors (Naval Reactors Program) has decided to promptly dismantle the defueled S3G and D1G Prototype reactor plants. The project will be completed as soon as practicable subject to available appropriated funding. To the extent practical, the resulting low-level radioactive materials will be recycled at existing commercial facilities. The remaining low-level radioactive wastes will be disposed of at the DOE Savannah River Site in South Carolina. All non-radiological waste would be recycled or disposed of off-site at permitted facilities using licensed haulers.

FOR FURTHER INFORMATION CONTACT: Requests for further information should be directed to Mr. Andrew S. Baitinger, Chief, West Milton Field Office, Office of Naval Reactors, Department of Energy, PO Box 1069, Schenectady, NY 12301–1069, *telephone* (518) 884–1234.

SUPPLEMENTARY INFORMATION: The S3G and D1G Prototype reactor plants are located on the 65-acre Kesselring Site near West Milton, New York, approximately 17 miles north of Schenectady. The S3G and D1G Prototype reactor plants first started operation in 1958 and 1962, respectively, and served for more than 30 years as facilities for testing reactor plant components and equipment and for training of U.S. Navy personnel. As a result of the end of the Cold War and the downsizing of the Navy, the S3G and D1G Prototype reactor plants were shutdown in May 1991 and March 1996, respectively. Removal of the spent nuclear fuel from the S3G and D1G Prototype reactors and shipments of the spent nuclear fuel to the Expended Core Facility at the DOE's Idaho National Engineering and Environmental Laboratory were completed in July 1994 and February 1997, respectively. After defueling, the S3G and D1G Prototype reactor plants were placed in a safe and stable protective storage condition. The Kesselring Site will not be released for other uses in the foreseeable future since two active prototype reactor plants continue to operate to perform training of U.S. Navy personnel and testing of naval nuclear propulsion plant equipment.

The alternatives analyzed in detail in the Final Environmental Impact Statement were the preferred alternative of prompt dismantlement, a deferred dismantlement alternative, and a no action alternative of keeping the defueled S3G and D1G Prototype reactor plants in protective storage indefinitely.

DOE has selected prompt dismantlement of the S3G and D1G Prototype reactor plants. All S3G and D1G Prototype reactor plant systems, components and structures will be removed from the Kesselring Site. To the extent practicable, the resulting low-level radioactive metals will be recycled at existing commercial facilities. The remaining low-level radioactive waste will be disposed of at the DOE Savannah River Site in South Carolina. There will be an estimated total of 60 radioactive material shipments from the Kesselring Site to either the Savannah River Site or to commercial recycling facilities. Two or three of the shipments will be by rail and the remainder will be by truck. The Savannah River Site currently receives low-level radioactive waste from Naval Reactors' sites in the eastern United States. Both the volume and radioactive content of the S3G and D1G Prototype reactor plant low-level waste fall within the projections of Naval Reactors' waste provided to the Savannah River Site, which are included and analyzed in the *Savannah River Site Waste Management Final Environmental Impact Statement*, dated July 1995. All nonradiological shipments would be by truck, and would be recycled or disposed of off-site at permitted facilities using licensed haulers.

The deferred dismantlement alternative would involve keeping the defueled S3G and D1G Prototype reactor plants in protective storage for 30 years before dismantlement. Deferring dismantlement for 30 years would allow nearly all of the cobalt-60 radioactivity to decay. Nearly all of the gamma radiation within the reactor plant comes from cobalt-60. The very small amount of longer-lived radioisotopes, such as nickel-59, would remain and would

have to be addressed during dismantlement.

The no action alternative would involve keeping the defueled S3G and D1G Prototype reactor plants in protective storage indefinitely. Since there is some residual radioactivity with long half-lives, such as nickel-59, in the defueled reactor plant, this alternative would leave some radioactivity at the Kesselring Site indefinitely.

The Naval Reactors Program distributed the Draft Environmental Impact Statement on the Disposal of the S3G and D1G Prototype Reactor Plants in July 1997. Comments from 14 individuals and agencies were received in either oral or written statements at a public hearing or in comment letters. Approximately one-third of the commenters expressed a preference for the Naval Reactors' preferred alternative, prompt dismantlement. Based on U.S. Environmental Protection Agency (EPA) review of the Draft Environmental Impact Statement, EPA rated the proposed project as ''LO'' (Lack of Objection). All of the comments and Naval Reactors' responses are included in an appendix to the Final Environmental Impact Statement, distributed in November 1997.

From an environmental perspective, no single alternative stands out as environmentally preferable. The radiation exposure to the general public would be small and comparable for all three alternatives. Occupational exposure would be higher for the prompt dismantlement alternative, however, this expected exposure would be comparable in magnitude to the radiation exposure routinely received during current operation and maintenance activities of Naval prototype reactor plants. Non-radiological environmental, health and safety impacts associated with all of the alternatives would also be small and consistent with ongoing Kesselring Site operations. Based on current conditions, any of the alternatives could be accomplished within Federal and State requirements, in both the short term and the long term. However, 30 years from now, changing conditions associated with the regulatory environment, and the availability of trained personnel and waste disposal facilities could result in unforeseeable complications or delays. Such future unforeseeable conditions cause additional uncertainty in the impacts associated with the deferred dismantlement and no action alternatives. Naval Reactors has identified the prompt dismantlement alternative as the preferred alternative since it is consistent with the Naval Reactors' record of managing waste efficiently and minimizing its generation. Prompt dismantlement would allow Naval Reactors to utilize an experienced work force that is presently located at the Kesselring Site. Prompt dismantlement can be accomplished safely, economically, and with a high degree of certainty that the environmental impacts would be small.

As discussed in the Final Environmental Impact Statement, the Naval Reactors Program implements a large number of conservative engineering practices in its operations. These conservative engineering practices will serve to ensure that environmental impacts will be very small. No additional mitigative measures have been identified which are needed to further reduce the small impacts which were described in the Final Environmental Impact Statement. Accordingly, all practicable means to avoid or minimize environmental harm from the preferred alternative have been adopted.

Issued at Arlington, VA, this 20th day of January 1998.

F.L. Bowman,

Admiral, U.S. Navy, Director, Naval Nuclear Propulsion Program.

[FR Doc. 98–1946 Filed 1–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Record of Decision, Shutdown of the River Water System at the Savannah River Site, Savannah River Operations Office, Aiken, South Carolina

AGENCY: U.S. Department of Energy.

ACTION: Record of Decision.

SUMMARY: The U.S. DOE has decided to implement the No Action alternative identified in the Final Environmental Impact Statement for the Shutdown of the River Water System (RWEIS) at the Savannah River Site (SRS). Under this alternative, DOE will continue to operate and maintain the system and maintain the water level of L-Lake.

DOE will assess the need for future environmental remediation alternatives for L-Lake under existing Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) commitments. Characterization activities associated with CERCLA closure are expected to begin in the year 2000 and be completed in several years. This characterization will inform any required remedial action. Pending these activities, DOE will continue to operate the RWS. If during continued operation of the RWS a system component fails, DOE will take appropriate emergency actions. DOE will then determine if the system is too costly to repair (by comparing this cost to estimated shutdown costs and future possible remediation costs under the CERCLA). If DOE determines that the RWS is too costly to repair, it will reevaluate all relevant commitments and the information in the RWEIS, to determine necessary actions to shut down the RWS. However, the RWS is in good condition and not expected to fail over this period of time.

This RWEIS evaluates three alternatives for the disposition of the RWS at the SRS. The RWS is a 50-mile underground concrete piping structure and pumping system that was built in the early 1950s to provide cooling water for the SRS' five nuclear production reactors. The RWEIS alternatives cover the spectrum of reasonable options as follows:

(1) Continue operation of the RWS (No Action Alternative);

(2) Shut down and maintain the RWS for potential restart (Preferred Alternative); and

(3) Shut down and deactivate the RWS with no maintenance for potential restart.

Based on the RWEIS evaluation of the potential environmental impacts, as well as the costs, energy consumption, and regulatory implications of the alternatives, DOE has selected the No Action alternative and will continue to operate the RWS. Other than potential CERCLA remediation activities, if DOE continued to operate and maintain the RWS indefinitely the No-Action Alternative would require the greatest commitment of money and energy resources. The RWS would continue to supply 5,000 gpm to L-Lake from the Savannah River. To do so, DOE would spend approximately $1,084,000 annually to provide RWS surveillance and maintenance and $494,000 annually for electrical energy to pump the water uphill from the river. Finally, DOE would continue to dredge the RWS intake canal to keep it clear of debris. However, there is great uncertainty regarding the cost of remedial action under CERCLA. Therefore, until characterization is completed, it will not be evident whether shutting down or continuing to operate and maintain the RWS is economically the most prudent course of action.

In its present configuration, the RWS circulates water from the Savannah River to a 1000 acre man-made lake known as L-Lake. L-Lake no longer serves to mitigate thermal effluents from L-Reactor because it no longer operates. RWS flow is necessary to maintain the full pool water level of L-Lake.

Low-levels of radionuclides were released to Steel Creek before L-Lake was constructed. As a result, contaminated sediments are largely confined to the former Steel Creek stream bed and floodplain that exists under L-Lake. The methods for any needed environmental remediation of these low-level radionuclide releases to Steel Creek, as well as those to other SRS streams, will be determined under the Federal Facility Agreement (FFA). This agreement, between DOE, the U.S. Environmental Protection Agency (EPA), and the South Carolina Department of Health and Environmental Control (SCDHEC), provides a commitment and schedule for the comprehensive remediation of contamination at the SRS, including SRS streams and lakes.

In accordance with the present FFA schedule, DOE will begin characterization of the L-Lake CERCLA unit in fiscal year 2000. DOE anticipates that this process will lead to an Interim Record of Decision (IROD) in Fiscal Year 2001. At that time DOE will decide whether L-Lake should be drawn down to facilitate characterization of future risks to human health and the environment. The characterization process and risk evaluation will lead to the selection of a preferred remedial alternative.

During these future draw down and characterization activities, DOE expects to stabilize exposed sediments and address the ''reasonable and prudent'' measures for protection of threatened and endangered species that the U. S. Fish and Wildlife Service (USFWS) has recommended as a result of the Endangered Species Act Section 7 consultation process.

FOR FURTHER INFORMATION CONTACT: *For RWEIS information:* Andrew R. Grainger, NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, Building 773–42A, Rm. 212, Aiken, South Carolina 29802, *Telephone:* (800) 881–7292, *Attention:* RWEIS, *E-mail:* nepa@srs.gov

For general information on the DOE National Environmental Policy Act (NEPA) process: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, *Telephone:* (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Located in southwest South Carolina, the SRS occupies an area of approximately 300 square miles (800 square kilometers). The Savannah River forms the SRS's southwestern boundary for approximately twenty-seven miles (forty-three kilometers) on the South Carolina-Georgia border. The SRS is approximately twenty-five miles (forty kilometers) southeast of Augusta, Georgia and twenty miles (thirty-two kilometers) south of Aiken, South Carolina, the nearest major population centers. The U.S. Atomic Energy Commission (AEC), a DOE predecessor agency, established the SRS in the early 1950s for the production of nuclear materials to support the United States' national defense, research, and medical programs.

SRS produced these materials by irradiating nuclear fuel and targets in SRS' five production reactors (C-, K-, L-, P-, and R-Reactors). In the reactors, closed pipe loops contained water to cool the fuel assemblies by passing water directly across them. The water in this closed loop was then pumped to heat exchangers where heat was transferred from the closed system to a secondary-cooling system. This arrangement of closed loops minimized contamination of the environment.

The water for the secondary-cooling system was provided by the RWS. The RWS pumped river water from the Savannah River using intake canals and pumps to the heat exchangers in the reactor areas (C-, K-, L-, P-, and R-Reactor areas) by way of distribution piping and water-storage basins.[1] The RWS also pumped water to Par Pond, which was used to store additional secondary-cooling water for P- and R-Reactors.

After passing through the heat exchangers and absorbing the heat from the primary closed-loop cooling system, the heated water in the secondary-cooling system was returned to the Savannah River by way of several discharge canals and streams. After 1985, when construction of L-Lake was completed, heated secondary-cooling water was also returned to the Savannah River by way of L-Lake which dissipated the heat from the thermal effluent (hot water) from L-Reactor. Thus, in all, the RWS is composed of river water intake canals, intake pumps, distribution piping to the reactor areas, 186-Basins, discharge canals, receiving streams, and lakes (Par Pond and L-Lake).

At the end of the Cold War in 1992, SRS' mission emphasis shifted from the production of nuclear materials to cleanup and environmental restoration. Consequently, SRS' reactors were shut down, thereby decreasing the demand for RWS flow. From 1988 to 1996, demand for RWS flow and flow discharged to onsite streams decreased from 380,000 gallons per minute (gpm) to 5,000 gpm. Therefore, reflecting decreased water needs and DOE's mandate to reduce operating costs, a 5,000 gpm pump was installed in 1997 to replace a larger, and more costly to operate, 28,000 gpm pump.[2] Further, because of reduced RWS demand, and because SRS' reactors will not operate again, DOE identified the RWS as excess infrastructure, costly to operate and maintain, but with limited application. Accordingly, DOE prepared the RWEIS to examine the environmental impacts of RWS shutdown with the preference of eliminating the operational costs of this infrastructure, now only marginally useful.

NEPA Process

DOE prepared this Record of Decision pursuant to the regulations of the Council on Environmental Quality for implementing the National Environmental Policy Act (NEPA), 40 CFR Parts 1500–1508, and DOE's NEPA Implementing Procedures, 10 CFR Part 1021. This Record of Decision is based on DOE's Final RWEIS for the Shutdown of the River Water System at the Savannah River Site, Aiken, South Carolina (DOE/EIS–0268), for which DOE published a Notice of Intent to prepare on June 12, 1996, in the **Federal Register**, 61 Fed. Reg. 29744. The notice announced a public scoping period, ending on July 12, 1996, and solicited comments and suggestions on the EIS' scope. DOE held scoping meetings in North Augusta, South Carolina on June 27, 1996. Comments received during the scoping period and DOE's responses thereto were used to prepare an action plan, issued in August 1996, defining the scope and approach of the RWEIS. The action plan and reference materials cited in the RWEIS were made available for review in the DOE Public Reading Room, located at the University of South Carolina-Aiken Campus, Gregg-Graniteville Library, 2nd Floor,

[1] The water-storage basins are also known as 186-Basins.

[2] In the RWEIS, the No-Action Alternative impacts are assessed against the baseline provided by operation of the 5,000 gpm pump. DOE reviewed installation of the 5,000 gpm pump as a categorical exclusion (EEC–SS–G–96–003) in accordance with DOE's NEPA regulations. 10 CFR 1021. During assessment of the categorical exclusion, DOE determined that a 5,000 gpm pump would be sufficient to maintain L-Lake at 190 feet MSL and to provide the minimum operating needs of K- and L-Reactor areas without violating any SRS permits. Accordingly, the categorical exclusion was approved on June 6, 1996, and the pump installed thereafter.

University Parkway, Aiken, South Carolina at (803) 641–3320.

DOE completed the draft RWEIS in November 1996, and on November 15, 1996, EPA published a Notice of Availability for the document in the **Federal Register**, 61 Fed. Reg. 58548. This notice started the public comment period for the draft RWEIS, which extended through December 30, 1996. DOE received comments by letter, electronic mail, and statements made during public hearings held in North Augusta, South Carolina on December 4, 1996, all of which were considered in preparing the final RWEIS. DOE completed distribution of the final RWEIS in May 1997, and on May 16, 1997, EPA published a Notice of Availability in the **Federal Register**, 61 Fed. Reg. 27024. This ROD is the culmination of and final step in the NEPA process for action on the RWS and announces DOE's selection of an alternative.

Alternatives Considered in Final RWEIS

No-Action Alternative

The No-Action Alternative does not change the current status quo and involves continued operation of the RWS using a 5,000 gpm pump. Under this alternative, L-Lake would maintain its water level at 190 feet MSL with makeup water provided by the RWS. Par Pond water level would continue to fluctuate naturally between 195 feet and 200 feet MSL. Under severe drought conditions, and if necessary, the RWS could be used to maintain Par Pond water level.

Proposed Action—Shut Down and Maintain Alternative

The Proposed Action—and Preferred Alternative, the Shut Down and Maintain Alternative—provides for shutdown and maintenance of the RWS in a standby condition that would allow restart. RWS shutdown would result in the L-Lake water level returning to the original Steel Creek stream bed over a ten year period. RWS shutdown would not change the status quo regarding Par Pond's water level; it would continue to fluctuate naturally between 195 feet and 200 feet MSL.

Under the Shut Down and Maintain Alternative, the RWS operational capacity would be preserved in a standby mode to account for unforeseen events, mission changes, or remedial action decisions. Maintaining the RWS in a standby condition [3] requires draining the system of water and placing the equipment in a protective state minimizing degradation.[4] Under this alternative, the RWS operation could be restored to provide water for future missions or, if necessary, to maintain Par Pond water level above 195 feet MSL in the unlikely event of a severe drought. In addition, the RWS could be restarted if the final outcome of the FFA process recommends refilling L-Lake with water to manage risk from contaminated sediments in the Steel Creek stream bed. During the interim, or in the event none of these potentialities are realized, shutdown of the RWS would eliminate operational costs associated with this system.

Shut Down and Deactivate Alternative

The Shut Down and Deactivate Alternative provides for the permanent cessation of RWS operation and does not preserve system capabilities, even in the most marginal state, for restart. DOE would shut down and deactivate the system in a secure, environmentally satisfactory condition and isolate all the intake pipes to prevent river water intrusion into the RWS. DOE would conduct no maintenance or surveillance on the RWS, with the exception of the L-Lake dam, which would be maintained until the Lake's water level returned to the original Steel Creek stream bed in approximately 10 years.

Under this alternative, L-Lake water level would return to the original Steel Creek stream bed. Par Pond water level would continue to fluctuate naturally between 195 feet and 200 feet MSL. Under severe drought conditions, the RWS could not be used to maintain Par Pond water level, even if necessary. Furthermore, the RWS could not be restarted if the final outcome of the FFA process recommended refilling L-Lake with water to manage risk from contaminated sediments in the Steel Creek stream bed.

Environmental Impacts of the Alternatives

Environmental Impacts of No Action Alternative

The No Action alternative would preserve the status quo and continue current operation of the RWS through a 5,000 gpm pump.[5] Under the No Action Alternative, L-Lake would remain at its normal water level of 190 feet MSL. Par Pond water level would continue to fluctuate naturally between 195 feet and 200 feet MSL.

Environmental Impacts of Shut Down and Maintain & Shut Down and Deactivate Alternatives

The environmental impacts of the Proposed Action—and Preferred Alternative, the Shut Down and Maintain Alternative—are the same as those of the Shut Down and Deactivate Alternative. Both alternatives call for DOE to shutdown the RWS. While the Proposed Action calls for DOE to preserve the RWS in a standby condition, the actions necessary to accomplish that goal do not entail environmental impacts beyond those associated with the shutdown action. Accordingly, the environmental impacts of either alternative are the same and DOE considers them together in the following paragraphs.

L-Lake

Under either the Shut Down and Maintain Alternative or the Shut Down and Deactivate Alternative, DOE would not augment water flow to L-Lake. L-Lake cannot maintain a water level of 190 feet MSL, its normal full pool water level, without flow augmentation from the RWS. Consequently, it would recede to the original Steel Creek stream bed conditions over a ten-year period.

As L-Lake recedes to the Steel Creek stream bed as a consequence of either shutdown alternative, habitat for amphibians, reptiles, semi-aquatic mammals, wading birds, and waterfowl would be gradually reduced and eliminated. Consequently, these species would be more vulnerable to predation. Eventually, alligators would be displaced due to the loss of habitat. Drawdown of L-Lake would result in the loss of nests, eggs, or hatchlings.

In addition, the reversion of L-Lake water level to the former Steel Creek stream bed would uncover lake bed sediments. As a result, these sediments could be susceptible to the forces of erosion, especially during storm events. In addition, the reversion of L-Lake

[3] This standby condition is also referred to as ''lay-up.''

[4] Placing the RWS in lay-up also allows maintaining portions of the system in a higher state of readiness in order to restore pumping capability more rapidly. Maintenance of certain portions of the RWS in such a condition might be warranted (1) where those portions are likely to be needed for future missions; (2) where they might be necessary to maintain Par Pond water levels in the event of a severe drought; or (3) where they might be necessary to refill L-Lake in the event of determination to do so as a result of the FFA process.

[5] As previously noted, the environmental impacts of the 5,000 gpm pump were evaluated under a categorical exclusion. On December 30, 1996, EPA provided comments on the Draft RWEIS and questioned the appropriateness of this categorical exclusion. EPA requested DOE to describe more thoroughly the impacts associated with the 5,000 gpm pump. In response to EPA's comment, those impacts were included in the Final RWEIS. A discussion demonstrating the appropriateness of the categorical exclusion may be found in the RWEIS at page E–61.

water level to the original Steel Creek stream bed could expose some sediments, primarily in the Steel Creek stream bed, that could contain low levels of contamination, primarily cesium-137.[6] Animals foraging in the L-Lake lake bed or Steel Creek stream bed could be exposed to these sediments via inhalation, ingestion, direct radiation exposure, and/or skin contact. Similarly, an on-site human working in the L-Lake bed lake could be exposed to the contaminants in sediments via inhalation, incidental ingestion, direct radiation exposure and/or skin contact. An off-site human could be exposed to contaminants in sediments through atmospheric or aqueous pathways via inhalation or ingestion from sediments that have been re-suspended in air or water. The off-site human would not be exposed to direct radiation.

Exposure to L-Lake lake bed contaminants is unlikely to pose a significant risk to SRS workers, the public, or the environment. The L-Lake lake bed contaminants would be unlikely to pose a significant risk to SRS workers because the concentration of the contaminants in the sediments is low and the amount of time that an SRS worker would be expected to spend in the lake bed would not yield an annual dose above DOE administrative limits (700 mrem). For example, an SRS worker spending eight hours per days for 250 days a year over a twenty-five year period would receive an annual dose of 41 mrem. The 41 mrem dose is well below DOE's 700 mrem administrative limit.

The L-Lake lake bed contaminants would be unlikely to pose a significant risk to the public because the public would not be exposed to direct radiation, which is the primary hazard associated with cesium-137. The probability of the maximally-exposed individual, located at the SRS site boundary, developing a fatal cancer as a result of 70 years exposure would be less than one in a million (5.6 X 10E–7). In DOE's judgment this risk is extremely small.

Finally, the L-Lake lake bed contaminants would be unlikely to pose a significant risk to the environment because erosion would be controlled and contaminated sediments would not pose a significant risk to foraging animals. Erosion would be controlled because, based on DOE's historic hydrologic data and models, L-Lake would probably recede during the growing season. As the Lake's water level slowly receded, wetland plants growing in the shore zone would recede down slope with the water. Seed banks along the shoreline would germinate and stabilize sediments in portions of the newly exposed shoreline. In addition, DOE would artificially seed the exposed L-Lake lake bed with appropriate vegetation in order to further stabilize the sediment. Thus, exposure to contaminants in the L-Lake due to erosion or resuspension of lake bed sediment would be minimized because the sediments would be protected from wave or wind agitation.

Furthermore, erosion and transport of contaminated L-Lake lake bed sediments would be reduced by the slow drawdown of the water level in the Lake, occurring over a ten year period, and by the resulting growth of stabilizing vegetation. Because of this slow drawdown and growth of stabilizing vegetation, suspension of sediments in the water column would be minimized. Further, DOE would maintain the Steel Creek dam during the drawdown to impede the transport of those sediments that became suspended in the water column. The Steel Creek dam would minimize the movement of contaminants suspended in the water column by creating a stilling basin to still the water and allow sediments to settle out of the water column.

Contaminants in L-Lake lake bed would not pose a significant risk to foraging animals either from radiological or non-radiological sources. As described in the RWEIS, radiological contaminants were screened against known background contaminant concentrations yielding estimated radiation dose rates, which were then compared to applicable standards. This comparison indicated that two radionuclides exceeded twice the background level, namely cesium-137 and Co-60. Cs-137 and Co-60 in L-Lake lake bed sediments would primarily cause risk from the direct exposure of penetrating gamma radiation. The concentrations of these radiological sources was used to estimate a dose rate to selected receptor species. The estimated radiation dose rates to selected receptor species are well below the applicable standards.

For non-radiological sources, it was recognized that L-Lake lake bed sediments would be exposed and that the sediments could become surface soil or facilitate vegetative growth. All samples detected in sediments were compared to screening levels for sediments, surface soils, and terrestrial plants. No sediment contaminants were present in average concentrations that exceeded available screening levels. Screening levels were not available for four non-radiological samples found in L-Lake sediment—beryllium, cobalt, thallium, and vanadium—which had an average concentration between two and three times their background levels. The potential risk of these contaminants (as well as all contaminants that were detected) were assessed by screening their respective concentrations against surface soil screening levels.

Assuming the sediments became surface soils, the average concentrations of beryllium, thallium, chromium, and vanadium were between two and three times their average background levels. Thallium was detected in five of forty-four samples and beryllium, chromium, and vanadium slightly exceeded twice its background screening level. This indicated that these contaminants either are not present in high concentrations or are not widespread because of the few occurrences in samples. Accordingly, they would not represent an unacceptable risk. The average concentration of cobalt was below its associated screening level.

Assuming the detected sediment concentrations were found in terrestrial plants, chromium, thallium and vanadium were between two and three times their background screening levels. Again, thallium was detected in five of 44 samples. It should also be noted that plants absorb chromium, thallium, and vanadium minimally from soils. Because of this fact and that L-Lake currently supports a healthy, diverse ecological community, it does not appear that effects to L-Lake plants from contaminants are occurring or would occur under the Proposed Action.

The screening process is discussed in greater detail in Appendix B of the RWEIS.

Par Pond

Par Pond water level would not be impacted by any of the alternatives considered in the RWEIS. Par Pond has not received makeup water from the RWS since January 1996, and has been allowed to fluctuate naturally between 195 feet and 200 feet MSL. Accordingly, ceasing operation of the RWS could not effect Par Pond water level because it is not currently receiving make-up water from the RWS.

[6] Cesium-137 is an external radiation hazard from direct exposure to gamma radiation which penetrates clothing and skin. Measurements taken under the surface of L-Lake show that cesium in the Lake sediments is largely concentrated in the original Steel Creek floodplain, currently beneath the surface of L-Lake. These measurements also show that a maximum (24-hour per day) radiation dose received by a human would be approximately 180 mrem per year above the typical radiation dose to which Americans are routinely exposed (approximately 360 mrem per year). The occupational dose limit for adults is 5,000 mrem per year, and this additional dose would not exceed that limit. 10 CFR § 20.1201.

Allowing Par Pond to fluctuate naturally was the product of prior analysis and decisions conducted under authority of NEPA and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In response to safety concerns presented by a 1992 leak in the Par Pond dam, DOE prepared a NEPA document called a Special Environmental Analysis (SEA) to assess the environmental impacts of an emergency drawdown of the Par Pond water level from 200 feet MSL, its normal water level, to 181 feet MSL. The SEA reviewed the anticipated and observed environmental impacts of drawing down, repairing, and refilling Par Pond, including potential health and ecological impacts resulting from the possible exposure to radiocesium contaminated sediment. It concluded that ''consideration would be given to begin refilling operations as soon as possible, perhaps before dam repairs are completed, to minimize impacts on the Par Pond ecosystem.'' DOE, Special Environmental Analysis for Par Pond at the Savannah River Site, page 4, (April, 1992). In addition, the SEA summarized consequences of possible future repair, remedial, and refilling actions, and developed a Mitigation Action Plan (MAP) to reduce the impacts of the repair activity. Under authority of the SEA, DOE proceeded with the Par Pond drawdown and repair project.

Following the repair action, DOE prepared a Par Pond Interim Record of Decision (IROD) to provide a CERCLA remedial action to address the interim period following the dam repair until a final remedial action could be studied and selected. The IROD's selected remedy consisted of refilling and maintaining Par Pond to 200 +/-1 feet until a NEPA evaluation could be accomplished to evaluate the environmental impacts from reduced flow to Lower Three Runs Creek (the creek below Par Pond dam), fluctuating reservoir water level, and discontinuing of river water pumping to the reservoir. DOE, Interim Action Record of Decision, Remedial Alternative Selection, Par Pond Unit, WSRC–RP–93–1549 (January 26, 1995). EPA and SCDHEC approved the IROD in February 1995, and Par Pond was completely refilled by March 15, 1995.

In 1995, DOE prepared a NEPA Environmental Assessment (EA), Natural Fluctuation of Water Level in Par Pond and Reduced Water Flow in Steel Creek Below L-Lake at the SRS (DOE/EA–1070). The EA analysis showed that no significant impacts would likely result to the Par Pond ecosystem if the Pond's water level were maintained at 195 feet MSL or above. Hydrological models analyzed in the EA showed that even without RWS flow augmentation, the Par Pond water level is not likely to decrease below 196 feet MSL, even in drought conditions. Further, the EA analysis showed that elimination of RWS water flow and the accompanying reduction of Savannah River nutrients flowing through Par Pond would cause the Pond's ecosystem to revert to that typically found in reservoirs in the southeastern United States. Based on the analysis in the EA, DOE issued a Finding of No Significant Impact (FONSI) in August 1995 under which RWS water flow to Par Pond was eliminated. Under the FONSI, if Par Pond water level decreases to 195 feet MSL or below, DOE will resume water flow augmentation through the RWS. Since issuance of the FONSI, natural water flow into Par Pond has maintained the Pond above 199 feet MSL.

Under either of the RWEIS shutdown alternatives, the status quo would not be changed and RWS water would not augment natural water flow into Par Pond. Under the Shut Down and Maintain Alternative DOE would be able to restart the RWS and resume pumping to Par Pond if the water level drops below 195 feet MSL, as called for in the FONSI and consistent with the IROD. However, under the Shut Down and Deactivate Alternative, DOE would not have the capability to restart the RWS to augment water flow to Par Pond in the event a severe drought demanded such an action.

Other Impacts

Under either of the shutdown alternatives, DOE would need to find an alternate water supply for auxiliary equipment cooling and for fire protection water reserves. The alternate water supply would be approximately 400 gpm and be drawn from groundwater. This groundwater would be provided by existing wells at rates much less than was historically provided by these same wells during reactor operations.

RWS shutdown would result in increased survival of Savannah River larval fish and fish eggs because they would no longer be entrained at the RWS intake structures. In addition, RWS shutdown would return 225 acres of original wetlands inundated by the damming of Steel Creek and creation of L-Lake. This acreage is approximately the same amount of wetlands that exists along the present shoreline of L-Lake that would be lost as L-Lake water level recedes to the original Steel Creek stream bed.

Environmentally Preferable Alternative

The proposed action in this instance presents a situation where the environmentally preferable action is different based on whether a short-term or long-term period of reference is used. Based on the analysis in the RWEIS, DOE finds that in the short-term, the environmentally preferable alternative is the No-Action Alternative to preserve the status quo and continue current operation of the RWS through a 5,000 gpm pump. The No-Action Alternative would preserve L-Lake and prevent the return of the Lake's water level to the original Steel Creek stream bed. The preservation of the Lake would, in turn, preserve up to 1000 acres of aquatic habitat formed by it, and forestall the transition of this habitat to uplands and wetlands habitat.

However, in the long-term, the Shut Down and Maintain Alternative is the environmentally preferable alternative. Under this alternative, L-Lake water level would return to the original Steel Creek stream bed over a ten year period, which would allow for the gradual restoration of a more stable ecosystem, such as that in existence prior to construction of L-Lake. The pre-Lake ecosystem would be more stable because it is the indigenous ecosystem, and because it would not be susceptible to potential imbalances, such as those introduced by changes in L-Lake water level associated with repair or renovation of the Steel Creek dam.

Furthermore, the restored L-Lake ecosystem would benefit from the reemergence of 225 acres of wetlands inundated by the creation of L-Lake, an amount that approximately equals the amount of wetland acreage that would be lost along the shoreline of L-Lake as it gradually recedes. After these areas are exposed, they would naturally reestablish wetland characteristics with cycles of drying and flooding typical of other hardwood swamps on the SRS and in the southeast. As typical wetlands they would support diverse ecological communities.

In addition, while a decrease in aquatic productivity would be expected as a consequence of the return of L-Lake water level to the original Steel Creek stream bed, an increase in terrestrial productivity would occur concomitantly. As the L-Lake water level receded, grasses, forbs, shrubs, and trees indigenous to the ecosystem would re-colonize the L-Lake lake bed over time. In addition to flora, indigenous fauna would return to the ecosystem, and a variety of terrestrial and semi-aquatic animal species would inhabit

the area as L-Lake gradually receded to the original Steel Creek stream bed.

Other than potential CERCLA remediation activities, if DOE continued to operate and maintain the RWS indefinitely the No-Action Alternative would require the greatest commitment of money and energy resources. The RWS would continue to supply 5,000 gpm to L-Lake from the Savannah River. To do so, DOE would spend approximately $1,084,000 annually to provide RWS surveillance and maintenance and $494,000 annually for electrical energy to pump the water uphill from the river. Finally, DOE would continue to dredge the RWS intake canal to keep it clear of debris. However, there is great uncertainty regarding the cost of remedial action under CERCLA. Therefore, until characterization is completed, it will not be evident whether shutting down or continuing to operate and maintain the RWS is economically the most prudent course of action.

Associated Actions

DOE considered a number of actions that affect the selection of an alternative for the RWS, as well as the timing of implementing a selected alternative. The actions are described in the following paragraphs.

Remedial Action Process for L-Lake

Through the FFA, DOE, EPA, and SCDHEC established the procedure for environmental restoration activities at the SRS. The FFA integrates DOE responsibilities under the Resource Conservation and Recovery Act (RCRA) and CERCLA. In response to EPA and SCDHEC comments on the Draft RWEIS, DOE recommends further assessment of L-Lake under the FFA, possibly resulting in a Baseline Risk Assessment (BRA) and a Remedial Investigation/ Feasibility Study (RI/FS).

A BRA will assess the risk associated with the contaminants identified in the L-Lake sediment, primarily located in the original Steel Creek stream bed, and it will provide a quantified expression of risk for key receptors, such as humans or wildlife, which may be exposed to the contaminants. An RI/FS will gather data necessary to determine more exactly the nature and extent of contamination in L-Lake sediment, establish criteria for remediating the Lake, identify the preliminary alternatives for remedial actions, and support the technical and cost analyses of the remedial alternatives.

DOE believes that the analysis and data collection necessary to prepare a BRA and RI/FS is more accurately, easily, and economically obtained once L-Lake has returned to its original Steel Creek stream bed. This is because there are inherent difficulties in taking sediment samples while L-Lake is filled if additional samples are needed. Because shutdown of the RWS will present no unreasonable risk to human health or the environment, and because analysis of L-Lake sediment is more appropriate after the Lake has returned to the original Steel Creek stream bed, DOE anticipates that this process will be accomplished under an Interim Record of Decision (IROD). In accordance with the present FFA schedule, DOE will begin characterization of the L-Lake CERCLA unit in fiscal year 2000 and begin L-Lake draw down in Fiscal Year 2001. The characterization process and risk evaluation will lead to the selection of a preferred remedial alternative. It is DOE's intention to incorporate National Environmental Policy Act values in the IROD and supporting documents.

Remedial Action Process for Onsite Streams

Steel Creek, Four Mile Branch, Pen Branch, and Lower Three Runs, are listed in the FFA as RCRA/CERCLA units because each stream received contaminants from past operations. EPA and SCDHEC expressed concern about the effect on these units due to the installation of the 5,000 gpm pump because the installation of that pump reduced water flow capacity through the streams from 28,000 gpm to 5,000 gpm. The reduction in water flow through the SRS streams has increased the concentration of tritium transported to SRS streams from the seepage basins.

Increased tritium concentrations in site streams are the consequence of two factors. First, tritium from the seepage basins is carried with rainwater to site streams as it percolates through the soil at a fairly constant rate. Second, the RWS flow formerly diluted the tritium-containing rainwater as it percolated to the streams. Installation of the 5,000 gpm pump reduced RWS flow contribution to the streams and removed this dilution water. Consequently, installation of the 5,000 gpm pump had the effect of increasing tritium concentrations.

To respond to comments on the draft RWEIS, the Final RWEIS evaluated the impacts to workers, ecosystems, and the public due to the installation of the 5,000 gpm pump from the resulting increase in tritium concentrations. Workers and ecological receptors would be at risk due to increased tritium exposure through incidental ingestion and skin contact. The public could be at risk due to ingestion of increased concentrations of tritium in drinking water. However, the RWEIS risk assessment showed that a hypothetical future worker's annual dose would be below 1 mrem. The RWEIS environmental risk assessment showed that the highest annual dose to an ecological receptor would be 92 mrem. Both of these dose rates are well below accepted standards.

Drinking water taken from the Savannah River would not be impacted because installation of the 5,000 gpm did not increase the total amount of tritium released to the River. Because the flow rate of water in the Savannah River is typically over 10,000 cubic feet per second (compared to the 45 cubic feet per second reduction of flow from installation of the 5,000 gpm pump) and because the nearest domestic water plant intake is approximately 40 miles downstream from SRS, the on-site increased concentrations have an insignificant health impact to the public. In summary, the increased concentrations of tritium in site streams were determined to be acceptable because these concentrations did not pose an unacceptable risk to workers, the ecosystems or the public.

Steel Creek, Four Mile Branch, Pen Branch, and Lower Three Runs, as well as other SRS streams have received low-levels of radionuclides, including tritium, from past SRS operations. Therefore, all of them will be evaluated in accordance with the FFA and be the subject of a risk analysis based on hypothetical future residents and industrial workers.[7] DOE is scheduled to provide information to EPA and SCDHEC, which will assist in the characterization of each stream and the selection of a remedial alternative.

Water Requirements for Alternatives

Under the No-Action Alternative, the RWS would continue to supply existing operational cooling and make-up water requirements for the reactor areas and maintain L-Lake at 190 feet MSL. For either of the shutdown alternatives, DOE must supply 400 gpm of groundwater to replace that provided by the RWS to cool auxiliary equipment and to provide make-up water for fire protection reserves.

[7] These two hypothetical future groups could be at risk because the risk analysis assumes that they drink water from SRS streams before it is mixed with the Savannah River. A down stream receptor is not at risk because the Savannah River flow rate is significantly higher than SRS streams and, in effect, dilutes tritium to concentrations which do not pose a risk to human health.

L-Area Sanitary Wastewater Treatment Plant

The L-Area sanitary wastewater effluent mixes with RWS flow before reaching L-Lake. The L-Area Sanitary Wastewater Treatment Plant wastewater permit took credit for RWS blending flow in determining the extent of treatment necessary before the wastewater was discharged to L-Lake. To stop RWS flow, DOE must implement an alternate compliance method to manage L-Area sanitary wastewater.

Reactor 186-Basins Alternative Uses Study

In 1994, DOE analyzed the feasibility of using the SRS C-, L-, P-, and R-Reactor 186-Basins [8] and 904-Retention Basins [9] for aquacultural purposes. In March 1995 DOE advertised the availability of the Reactor 186-Basins for commercial use. DOE accepted one fish farming proposal that would have relied on ground water for make-up water, although this proposal was later withdrawn. At the present time, no future uses of the 186-Basins or the 904-Retention Basins are planned. DOE could accept similar proposals in the future regardless of the RWEIS alternative selected because the basins do not rely on the RWS for make-up water.

Decision

DOE selects the No Action Alternative of the RWEIS—Continue to Operate the RWS. Under this alternative, DOE will continue to operate and maintain the system as well as maintain the water level of L-Lake at its full pool water level of 190 feet MSL.

DOE will assess the need for future environmental remediation alternatives for L-Lake under existing CERCLA commitments. Characterization activities associated with CERCLA closure are expected to begin in the year 2000 and be completed in several years. This characterization will inform any required remedial action. Pending these activities, DOE will continue to operate the RWS. If during continued operation of the RWS a system component fails, DOE will take appropriate emergency actions. DOE will then determine if the system is too costly to repair (by comparing this cost to estimated shutdown costs and future possible remediation costs under CERCLA). If DOE determines that the RWS is too costly to repair, it will reevaluate all relevant commitments and the information in the RWEIS, to determine necessary actions to shut down the RWS. However, the RWS is in good condition and not expected to fail over this period of time.

In accordance with the present FFA schedule, DOE will begin characterization of the L-Lake CERCLA unit in fiscal year 2000. DOE anticipates that this process will lead to an Interim Record of Decision (IROD) in Fiscal Year 2001. At that time DOE will decide whether L-Lake should be drawn down to facilitate characterization of future risks to human health and the environment. The characterization process and risk evaluation will lead to the selection of a preferred remedial alternative. Not withstanding a major system failure, DOE has decided to operate and maintain the RWS until a preferred remedial alternative is selected.

DOE made this decision after considering the most recent operating and maintenance costs and estimated shutdown implementation costs. DOE has concluded the amount and uncertainty in shutdown implementation costs suggest the RWS should continue to be operated while DOE monitors RWS operating and maintenance costs to determine when continued operation becomes too costly. For example, if a portion of the system failed, DOE may elect to take an emergency action in accordance with 40 CFR 1506.11, if appropriate, and then determine if repair was too costly. If DOE determines that repair is too costly it will announce this decision in a future Record of Decision under the requirements of NEPA and CERCLA, as necessary.

Prior to drawdown, DOE will notify the USFWS to ensure all ''reasonable and prudent'' measures, which were recommended by USFWS during the Endangered Species Action consultation process to protection of threatened and endangered species, are still adequate and appropriate. DOE will also negotiate a schedule with USFWS for the review and completion of these measures.

During any future draw down and characterization activities DOE expects to stabilize exposed sediments and address the ''reasonable and prudent'' measures, discussed above.

DOE considers continued operation of the RWS to be environmentally preferable in the short-term because L-Lake remain as a lake with its ecology unaffected.

Comments on Final RWEIS

DOE received two letters commenting on the Final RWEIS. The first, a letter from EPA, Region IV, dated June 12, 1997, expressed concern that the RWEIS does not adequately consider injury or impacts to endangered species. To consider injury or impacts to these species DOE and USFWS entered into a formal consultation process regarding endangered species. The USFWS recommended specific ''reasonable and prudent'' measures to protect the bald eagle and wood stork during the L-Lake water level return to the original Steel Creek stream bed. DOE endorsed these reasonable and prudent measures. However, these measures will not be implemented at this time because the draw down of L-Lake will not occur as a result of this decision.

The letter from EPA, Region IV also expressed concern that the RWEIS did not adequately consider the ecological risks associated with shutdown of the RWS. However, as explained in the Environmental Impacts section, the RWEIS ecological risk assessment (ERA) concluded that significant potential risks to ecological receptors from contaminants is not likely.

Finally, as a general statement, the letter from EPA, Region IV stated that, ''This NEPA action should be coordinated to the fullest extent possible with FFA activities''. The selection of the No Action alternative has been made, in part, in response to this statement.

In addition, the RWEIS documented several measures that were taken to coordinate the NEPA with the FFA process, which include the following: (1) use of FFA criteria as contamination level screening limits to estimate future potential remedial action decisions; (2) movement of the L-Lake unit from Appendix G to Appendix C of the FFA in order to avoid the unnecessary generation of a Site Evaluation Report and expedite the FFA process; and (3) preservation of the ability to refill L-Lake under the RWEIS shut down and maintain alternative in the event that such action is determined to be necessary under the FFA.

The second letter, dated June 11, 1997, from the Office of Environmental Policy and Compliance within the Department of the Interior (DOI) addressed several concerns regarding the revised ecological risk assessment (ERA) provided in the RWEIS. Specifically, DOI commented that guidance DOE used to develop the RWEIS ERA ''is inadequate and inconsistent with the US EPA's guidance on ecological risk

[8] 186-Basins are water storage basins which are not contaminated.

[9] 904-Retention Basins are 50 million gallon basins that were designed to receive emergency cooling water in the event of a reactor accident.

assessment.'' To the contrary, DOE believes the RWEIS ERA was conducted in accordance with the most current EPA guidance.

The objective of the RWEIS ERA was to determine, as accurately as possible under the existing L-Lake characteristics, the probable outcome of a CERCLA ERA.[10] The RWEIS ERA is adequate because it used maximum contaminant concentrations in its risk assessments. In fact, all radiological risks were within dosimetry-based limits acceptable to the International Atomic Energy Agency. Where the maximum concentrations of some non-radiological contaminants showed a risk potential, either the average concentration of the contaminant was compared to background levels or, alternately, the contaminant concentration was compared with more contaminant-specific information available in accepted scientific literature. This procedure is part of the typical process of interpreting the results and uncertainties of an ERA and represents the general ERA approach recommended in the EPA guidance for Superfund. EPA, Ecological Risk Assessment for Superfund: Process for Designing and Conducting Ecological Risk Assessments, Review Draft, (1996).

DOI also asserted that the ''[c]onclusions of no risk are inconsistent with actual research findings.'' DOI cited specific DOE studies sent to USFWS during the formal Endangered Species Act consultation. The studies DOI cited assessed DNA changes found in blood samples of various wildlife species present on the SRS. In response to this assertion, DOE notes that, in no case did any of the studies suggest that an observable change in a wildlife population would result from the exposure to low levels of radionuclides found in L-Lake. Accordingly, this supports the RWEIS ERA finding that significant potential risks to ecological receptors from contaminants are not likely.

Finally, DOI commented on various DOE studies showing the presence of elevated mercury concentrations in the SRS environment. However, DOI's comment does not reflect the fact that the presence of mercury in the SRS environment is not the result of releases attendant to SRS operations. Indeed, mercury is elevated throughout areas of the southeastern United States due to atmospheric deposition, not due to SRS operations. Reflecting and restating this fact, SCDHEC issued a fish consumption advisory for numerous lakes and rivers in South Carolina based on mercury concentrations in fish. Again, the presence of this mercury was not and cannot be correlated to any SRS operations. Accordingly, DOE has no control over and is not responsible for the atmospheric deposition of mercury at SRS, or in other areas of the southeastern United States. Consequently, a returning L-Lake water level to the original Steel Creek stream bed would not exacerbate this regional phenomenon or increase ecological risk.

[10] The CERCLA ERA will be used to aid the determination of a final remedial action at L-Lake. A final action is typically made only after the lake bed is characterized in detail using information such as groundwater hydrogeology, extent of groundwater contamination, and existing burial area contamination profiles. Presently, these areas are under as much as 50 feet of water and cannot be adequately characterized. As a result, a complete risk assessment cannot be performed and a final remedial alternative cannot be selected until L-Lake returns to the original Steel Creek stream bed.

Conclusion

After consideration of all relevant information and data, DOE selects the No Action alternative as the most appropriate action for the future of the River Water System at the Savannah River Site at this time. This operational decision is made in recognition of all beneficial and adverse environmental impacts, monetary costs, regulatory implications and commitments under the FFA, and dictates of relevant statutes.

Signed this 23rd day of December, 1997, at Aiken, South Carolina.

Greg Rudy,

Acting Manager, Savannah River Operations Office.

[FR Doc. 98–1947 Filed 1–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Hydrogen Technical Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770, as amended), notice is hereby given of the following advisory committee meeting: Hydrogen Technical Advisory Panel.

Date: Monday, March 2, 1998, 9:00 A.M.–4:30 P.M., Tuesday, March 3, 1998, 9:00 A.M.–3:30 P.M.

Place: Sheraton Premiere Hotel at Tysons Corners, 8631 Leesburg Pike, Vienna, Virginia 22182; Telephone: 800–572–7666.

FOR FURTHER INFORMATION CONTACT: Russell Eaton, Designated Federal Official, Department of Energy, Golden Field Office, 1617 Cole Blvd, Golden, CO 80401, Telephone: 303–275–4740.

SUPPLEMENTARY INFORMATION:

Purpose of the Panel: The Hydrogen Technical Advisory Panel (HTAP) will advise the Secretary of Energy who has the overall management responsibility for carrying out the programs under the Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990, Pub. L. No. 101–566 and the Hydrogen Future Act of 1996, Public Law No. 104–271. The Panel will review and make any necessary recommendations to the Secretary on the following items: (1) The implementation and conduct of programs required by the Act, and (2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems.

Tentative Schedule

Monday, March 2, 1998

9:00 AM, Introduction and Opening Comments—A. Lloyd
9:15, Opening Comments and Introduction of New Panelists—A. Lloyd/A. Hoffman
9:45, DOE Federal Report—R. Eaton
10:00, Report of the President's Committee of Advisors on Science and Technology (P–CAST), 11-Lab Study—S. Gronich
10:30, Break
10:45, Russian-American Fuel Cell Consortium (RAFCO)—R. Bradshaw
11:15, DOE's Fuel Cell Coordination Committee—R. Bradshaw
12:00 PM, Lunch
1:30, Strategic Directions Draft Plan—Bailey/Kamal/Zalosh
2:30, DOE Fuel Cell Program for Transportation—P. Patil
3:00, Break
3:15, California Hydrogen Business Council—D. Moard
3:30, Public Comments—Audience
4:00, HTAP Panel Comments—Panel
4:30, Adjourn
6:00, Reception

Tuesday, March 3, 1998

9:00 AM, HTAP Report to Congress—A. Lloyd
12:00 PM, Lunch
1:30, HTAP Report to Congress—Discussion
2:45, Public Comments
3:15, HTAP Panel Discussion and Roundup Panel
3:30, Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Russell Eaton's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000

Independence Avenue, SW, Washington, DC 20585, between 9:00 A.M. and 4 P.M., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Russell Eaton, Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, CO 80401, or by calling (303) 275–4740.

Issued at Washington, DC, on January 23, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2047 Filed 1–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board—Openness Advisory Panel.

Date and Time: Friday, February 13, 1998, 8:30 A.M.—3:30 P.M.

Place: Doubletree Hotel, Columbia Room, 802 George Washington Way, Richland, Washington 99352.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–1709.

SUPPLEMENTARY INFORMATION: The purpose of the Openness Advisory Panel is to provide advice to the Secretary of Energy Advisory Board regarding the status and strategic direction of the Department's classification and declassification policies and programs, and other aspects of the Department's ongoing Openness Initiative. The Panel's work will help institutionalize the Department's Openness Initiative.

Tentative Agenda

Friday, February 13, 1998

8:30–9:00 AM, Opening Remarks & Introductions—R. Meserve, Chairman
9:00–9:30 AM, Subgroup Report: Observations from the February 4 Meeting of the Hanford Openness Workshop—T. Cotton, OAP Member
9:30–10:15 AM, Presentation & Discussion: Hanford Openness Workshop Overview—Objectives, Issues, Observations & Status—Hanford Openness Workshop Spokesperson
10:15–10:30 AM, Break
10:30–11:30 AM, Status Report: Records Management Implementation Strategy & Status Report—Howard Landon, DOE Office of Information Management
11:30–12:00 PM, Public Comment Period
12:00–1:00 PM, Lunch
1:00–1:45 PM, Status Report: Declassification Implementation Strategy & Status—Richard Lyons, DOE Office of Declassification
1:45–2:45 PM, Panel Discussion: Declassification & Records Management Issues: A Path Forward—Guest Panelists & OAP Members
2:45–3:15 PM, Public Comment Period
3:15 PM, Adjourn

This tentative agenda is subject to change. A final agenda will be available at the meeting.

Public Participation: The Chairman of the Panel is empowered to conduct the meeting in a way which will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Richland, Washington the Panel welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Panel will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. Information on the Openness Advisory Panel may also be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on January 23, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2048 Filed 1–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–183–000]

ANR Pipeline Company; Notice of Application

January 22, 1998.

Take notice that on January 14, 1998, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP98–183–000, an application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's Regulations for permission and approval to abandon a natural gas exchange service with Koch Gateway Pipeline Company (Koch), all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR states that the exchange service was originally authorized by Commission order issued November 15, 1983, in Docket No. CP83–457–000. ANR further states that under the terms of the agreement, ANR is authorized to exchange up to 10,000 Mcf of natural gas per day with Koch. ANR indicates that this agreement is designated as Rate Schedule X–138 in ANR's FERC Gas Tariff, Original Volume No. 2.

Any person desiring to be heard or to make protest with reference to said application should on or before February 12, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure provided for, unless otherwise advised, it will be

unnecessary for ANR to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1982 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–558–001]

CNG Transmission Corporation; Notice of Amendment

January 22, 1998.

Take notice that on January 15, 1998, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP96–558–001 an amendment pursuant to Section 7 of the Natural Gas Act, as amended, and the Commission's Rules and Regulations thereunder, to amend its certificate issued at Docket No. CP96–558–000 on October 11, 1996, all as more fully set forth in the application on file with the Commission and open to public inspection.

According to CNG, the above order approved the abandonment in place of 67.07 miles of 14-inch pipeline, known as Line 14, located in Potter County, Pennsylvania and Livingston, Allegany and Wyoming Counties, New York. By this amendment, CNG requests to abandon an additional 5.5 miles of Line 14 in Allegany County, New York, due to age and condition.

CNG states that the abandonment of Line 14 will have no impact on CNG's existing services. This is so, according to CNG, because (1) the markets served by Line 14 have declined, and (2) CNG's existing, parallel pipelines, Lines 24 and 554 have sufficient capacity to maintain existing services to the markets served by this part of CNG's system.

Any person desiring to be heard or to make any protest with reference to said application, should on or before February 12, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (Rule 210, 211, or 214) and regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its delegate, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the certificate is required by the public convenience and necessity.

If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that an oral hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1981 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No CP98–188–000]

CNG Transmission Corporation; Notice of Request Under Blanket Authorization

January 22, 1998.

Take notice that on January 15, 1998, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP98–188–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon in place 0.42 mile of 12-inch pipeline, located in Marshall County, West Virginia, crossing the Ohio River and ending in York Township, Ohio, under CNG's blanket certificate issued in Docket No. CP82–537–000, pursuant to Section 7(c) 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.

CNG proposes to abandon in place 0.42 mile of bare 12-inch pipeline, known as H–197, starting in Marshall County, West Virginia, crossing the Ohio River, and ending in York Township, Ohio, where it originally tied into East Ohio Gas Company's TPL–9. CNG states that gas has not flowed through this segment of H–197 since the 1980's, therefore the abandonment of this segment of H–197 will have no effect on any existing 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1983 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–113–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

January 22, 1998.

Take notice that on January 20, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, with a requested effective date of May 1, 1998.

CIG states that the purpose of the filing is to reform its Gas Quality Control service and low-Btu purchase requirements pursuant to Section 1.15 of the Stipulation and Agreement in Docket No. RP96–190–000, approved by the Commission on October 16, 1997.

CIG states that the copies of the filing are being mailed to all holders of the tariff and to public bodies.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in

accordance with Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1988 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–572–000]

Easton Utilities Commission; Notice of Filing

January 22, 1998.

Take notice that on April 11, 1997, the Easton Utilities Commission on behalf of the Town of Easton, Maryland (Easton) filed a request for waiver of the standards of conduct and functional separation requirements adopted by the Commission in Order No. 889. Easton also seeks a declaration by the Commission that Easton's willingness to provide information concerning its transmission system for inclusion in data provided to the Pennsylvania-New Jersey-Maryland (PJM). Interconnection for posting of PJM's Oasis Shall be deemed to satisfy any requirements applicable to Easton to establish an OASIS.

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 February 4, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1980 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–000]

Koch Gateway Pipeline Company; Notice of Informal Settlement Conference

January 22, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on February 10, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Edith A. Gilmore at (202) 208–2158 or Sandra J. Delude at (202) 208–0583.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1986 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP95–326–016 and RP95–242–015]

Natural Gas Pipeline Company of America; Notice of Filing Refund Report

January 22, 1998.

Take notice that on January 16, 1998, Natural Gas Pipeline Company of America (Natural) filed its report of refunds in the above referenced docket for the period April 1, 1996, through November 30, 1997.

Natural states the refunds were disbursed on December 19, 1997, and that customers were served with calculations supporting their individual refunds at that time.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before January 29, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1984 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–000]

Texas Gas Transmission Corporation; Notice of Informal Settlement Conference

January 22, 1998.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10 a.m. on Wednesday, January 28, 1998, reconvening at 10 a.m. on Thursday, January 29, 1998, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) prior to attending.

For additional information please contact Michael D. Cotleur at (202) 208–1076, or Russell B. Mamone at (202) 208–0744.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1985 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–112–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 22, 1998.

Take notice that on January 20, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following revised tariff sheets to become effective January 1, 1998:

Second Revised Volume No. 1

1st Rev 28th Revised Sheet No. 15
1st Rev 31st Revised Sheet No. 16
1st Rev 27th Revised Sheet No. 18
1st Rev 24th Revised Sheet No. 21

Original Volume No. 2

1st Rev 72nd Revised Sheet No. 11B

Williston Basin states that it has determined that the take-or-pay amounts associated with Docket No. RP93–175–000 have been fully recovered as of December 31, 1997. As a result, the instant tariff sheets reflect the elimination of the throughput surcharge associated with Docket No. RP93–175–000, effective January 1, 1998. Williston Basin further states that it will file a final reconciliation of such throughput surcharge at the time of its next annual reconciliation, to be filed May 29, 1998. At that time, the appropriate accounting will be finalized and Williston Basin will propose a mechanism for final disposition of any overcollections.

Williston Basin also states that on December 31, 1997, it filed its Semi-annual Fuel Reimbursement Adjustment filing in Docket No. TM98–2–49–000. The tariff sheets in that filing reflected an effective date of February 1, 1998. Therefore, Williston Basin has filed the following revised tariff sheets to its December 31, 1997 filing in Docket No. TM98–2–49–000 to reflect the reduction in the take-or-pay surcharge reflected in the instant filing:

Second Revised Volume No. 1

Sub Twenty-ninth Revised Sheet No. 15
Sub Thirty-second Revised Sheet No. 16
Sub Twenty-eighth Revised Sheet No. 18
Sub Twenty-fifth Revised Sheet No. 21

Original Volume No. 2

Sub Seventy-third Revised Sheet No. 11B

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 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1987 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1186–000, et al.]

The Dayton Power and Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 21, 1998.

Take notice that the following filings have been made with the Commission:

1. The Dayton Power and Light Company

[Docket No. ER98–1186–000]

Take notice that on December 23, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing DTE Energy Trading, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon establishing DTE Energy Trading, Inc., and the Public Utilities Commission of Ohio.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Energy Masters International, Inc.

[Docket No. ER98–1187–000]

Take notice that on December 19, 1997, Energy Masters International, Inc. (Energy Masters), filed a Notice of Succession pursuant to § 35.16 and § 131.51 of the Commission's Regulations for the purpose of notifying the Commission that Energy Masters has succeeded to the tariffs and contracts of Cenerprise, Inc., currently on file with the Commission, as of December 9, 1997.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Electric Company

[Docket No. ER98–1188–000]

Take notice that on December 23, 1997, Commonwealth Electric Company (Commonwealth), tendered for filing a non-firm point-to-point transmission service agreement between Commonwealth and Williams Energy Services Company (Williams Energy). Commonwealth states that the service agreement sets out the transmission arrangements under which Commonwealth will provide non-firm point-to-point transmission service to Williams Energy under Commonwealth's open access transmission tariff accepted for filing in Docket No. ER97–1341–000, subject to refund and issuance of further order.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER98–1189–000]

Take notice that on December 23, 1997, PECO Energy Company (PECO), filed a Service Agreement dated December 15, 1997, with QST Energy Trading, Inc. (QST), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds QST as a customer under the Tariff.

PECO requests an effective date of December 15, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to QST and to the Pennsylvania Public Utility Commission.

Comment date: February 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Madison Gas and Electric Company

[Docket No. ER98–1190–000]

Take notice that on December 23, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with:

- NP Energy Inc.
- Southern Energy Trading & Marketing, Inc.
- TransCanada Energy Ltd.
- Williams Energy Services Company

MGE requests an effective date 60 days from the filing date.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Madison Gas and Electric Company

[Docket No. ER98–1191–000]

Take notice that on December 23, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Power Sales Tariff with:

- NP Energy Inc. 0
- Southern Energy Trading & Marketing, Inc.
- TransCanada Energy Ltd.
- Williams Energy Services Company

MGE requests an effective date 60 days from the filing date.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Company

[Docket No. ER98–1192–000]

Take notice that on December 23, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Short-Term Firm Point-to-Point Transmission Service with LG&E Energy Marketing.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective December 1, 1997.

A copy of this filing was caused to be served upon LG&E Energy Marketing as noted in the filing letter.

Comment date: February 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Fitchburg Gas and Electric Light Company

[Docket No. ER98–1193–000]

Take notice that on December 23, 1997, Fitchburg Gas and Electric Light Company (Fitchburg), tendered for filing five service agreements between Fitchburg and Green Mountain Power, Inc., New England Power Company, The United Illuminating Company, New Energy Ventures, and Enron Power Marketing, Inc., for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2463–000. Fitchburg requests an effective date of November 23, 1997, for Green Mountain Power, Inc., New England Power Company and Enron Power Marketing, Inc., and an effective date of December 25, 1997, for United Illuminating Company, and December 26, 1997, for New Energy Ventures.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER98–1195–000]

Take notice that on December 23, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Edgar Electric Cooperative Association will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 1, 1997.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER98–1196–000]

Take notice that on December 22, 1997, Arizona Public Service Company (the Company), tendered for filing an informational report on refunds of over billed amounts to wholesale customers through the Company's FERC Fuel Adjustment Clause.

Copies of this filing have been served upon the affected parties as follows:

Customer name	APS–FPC/ FERC rate schedule
Electrical District No. 3 (ED–3)	12
Tohono O'odham Utility Authority (TOUA)	52
Arizona Electric Power Cooperative[1] (AEPCO)	57
Wellton-Mohawk Irrigation and Drainage District (Wellton-Mohawk)	58
Arizona Power Authority[1] (APA)	59
Colorado River Indian Irrigation Project[1] (CRIIP)	65
Electrical District No. 1 (ED–1)	68
Arizona Power Pooling Association[1] (APPA)	70
Town of Wickenburg (Wickenburg)	74
Southern California Edison Company (SCE)	120
Electrical District No. 6 (ED–6)	126
Electrical District No. 7 (ED–7)	128
City of Page[1] (Page)	134
Electrical District No. 8 (ED–8)	140
Aguila Irrigation District (AID)	141
McMullen Valley Water Conservation and Drainage District (MVD)	142
Tonopah Irrigation District (TID)	143
Citizens Utilities Company[1] (Citizens)	149
Harquahala Valley Power District (HVPD)	153
Buckeye Water Conservation and Drainage District (Buckeye)	155
Roosevelt Irrigation District (RID)	158
Maricopa County Municipal Water Conservation District (MCMWCD)	168
City of Williams (Williams)	192
San Carlos Indian Irrigation Project (SCIIP)	201
Maricopa County Municipal Water Conservation District at Lake Pleasant (MCMLk.Pl.)	209

[1] AFS–FPC Rate Schedule in effect during the refund period.

the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER98–1197–000]

Take notice that on December 24, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Canadian Niagara Power Company (CNP).

Cinergy and CNP are requesting an effective date of December 1, 1997.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Northeast Utilities Service Company

[Docket No. ER98–1199–000]

Take notice that on December 24, 1997, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with the Town of Littleton, New Hampshire Water & Light Department (Littleton), under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to Littleton.

NUSCO requests that the Service Agreement become effective January 1, 1998.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER98–1200–000]

Take notice that on December 24, 1997, Wisconsin Electric Power

Company (Wisconsin Electric), tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date of January 2, 1998. Wisconsin Electric is authorized to state that Tenaska Power Services Company joins in the requested effective date.

Copies of the filing have been served on Tenaska Power Services Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER98–1201–000]

Take notice that on December 23, 1997, the PJM Interconnection, L.L.C. (PJM), filed, on behalf of the Members of the LLC, membership application's for MidCon Gas Services Corporation and Mc2. PJM requests an effective on the day after received by FERC.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Texas Utilities Electric Company

[Docket No. ER98–1202–000]

Take notice that on December 23, 1997, Texas Utilities Electric Company (TU Electric), tendered for filing certain unexecuted Transmission Service Agreements (TSA's), with customers receiving service from TU Electric pursuant to TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections (TFO Tariff).

By its October 15, 1997, Order in Docket No. ER97–3113–000, the Commission accepted the revised TFO Tariff for filing, with modifications, to become effective as of January 1, 1997. TU Electric requests an effective date for the TSA's that corresponds to the January 1, 1997, effective date of the revised TFO Tariff. Copies of the filing were served on customers receiving service under the TSA's, as well as the Public Utility Commission of Texas.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of New Mexico

[Docket No. ER98–1204–000]

Take notice that on December 24, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, dated December 17, 1997, for firm point-to-point transmission service and ancillary service, between PNM Transmission Development and Contracts (Transmission Provider) and PNM International Business Development (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. This service agreement supersedes an existing service agreement between the Transmission Provider and the Transmission Customer which will expire by its own terms on December 31, 1997.

Under the Service Agreement, Transmission Provider provides to Transmission Customer reserved capacity from PNM's San Juan Generating Station 345 kV Switchyard (point of receipt) to PNM's Luna 345 kV Switching Station (point of Delivery) for the period beginning January 1, 1998 and ending December 31, 1998.

Comment date: February 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Light Company

[Docket No. ER98–1205–000]

Take notice that on December 24, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and two service agreements for two new customers, Tenaska Power Services Co., and Griffin Energy Marketing L.L.C.

CILCO requested an effective date of December 7, 1997.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: February 4, 1998, 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1989 Filed 1–27–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5955–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following new Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1, EPA No. 1840.01. The ICR describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1840.01.

SUPPLEMENTARY INFORMATION:

Title: Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1, EPA No. 1840.01. This is a new collection.

Abstract: On April 19, 1996, EPA proposed revised standards for hazardous waste combustors (HWCs) (61 FR 17358), defined as incinerators, cement kilns, and light-weight aggregate kilns that burn hazardous waste. These rules were proposed under joint authority of the Resource Conservation and Recovery (RCRA) and the Clean Air Act (CAA), as amended. The proposal fulfills the Agency's commitments to meet CAA requirements and also to upgrade the emission standards for hazardous waste burning facilities, as outlined in the 1994 Hazardous Waste Combustion Strategy.

In the rulemaking entitled ''Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1,'' EPA finalizes some of the requirements

contained in the earlier proposal. This ICR covers reporting and recordkeeping provisions of the new requirements. The changes to the RCRA regulations: (1) outline provisions for excluding generators of comparable/syngas fuel from the definition of solid waste under 40 CFR part 261; and (2) provide new RCRA permit modification provisions to make it easier for facilities to make changes to existing permits when adding air pollution equipment or making other changes in equipment or operation needed to comply with the upcoming air emission standards.

In addition to the RCRA changes, under the CAA the rule establishes 40 CFR part 63, subpart EEE, which applies to HWCs. As a first step in establishing national emission standards for hazardous air pollutants (NESHAPs) for HWCs (these standards were proposed on April 19, 1996 at 61 FR 17358), part 63, subpart EEE provides public notification and regulatory notification of intent to comply (NIC) provisions. These provisions require HWCs to submit materials to EPA outlining their plan to comply with the forthcoming NESHAP standards, which will be promulgated at a later date. These provisions also allow for extensions to the compliance period to promote the installation of cost effective pollution prevention technologies to replace or supplement emission control technologies for meeting the emission standards.

EPA is collecting the information for this rule to ensure adequate environmental protection. The information being collected is primarily for facilities to demonstrate to EPA that they meet the necessary criteria for regulatory exemptions. The information is necessary for EPA to ensure that the specified facilities are appropriately regulated, but that duplicate regulation is not taking place. EPA also requires the HWC notification procedures to ensure stakeholder involvement and to ensure that facilities are preparing to comply with the forthcoming NESHAPs for HWCs. Responses to this information collection are mandatory according to the Resource Conservation and Recovery Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The proposed rule was published on April 19, 1996 (61 FR 17358); and no comments were received on the information requirements.

Burden Statement: For those generators applying for the comparable/syngas fuel exemption, the average annual respondent reporting burden is estimated to be 0.5 hours per facility and the average annual recordkeeping burden is estimated to be 24.9 hours per facility. For burners of comparable/syngas fuels, there is no reporting burden and the annual recordkeeping burden is 3.3 hours per facility. For HWCs complying with the notification of intent to comply regulations, the average annual reporting burden (to EPA) is 60.4 hours per facility and the average annual recordkeeping burden is 9.0 hours per facility. 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: Hazardous waste combustors.

Estimated Number of Respondents: 315.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 12,905 hours.

Estimated Total Annualized Cost Burden: $1,660,000.

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. 1840.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: January 22, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–2084 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5954–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Water Act State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Clean Water Act State Revolving Fund Program, OMB Control Number 2040–0118, and expiration date of 02/28/98. 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 February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1391.04.

SUPPLEMENTARY INFORMATION:

Title: Clean Water Act State Revolving Fund Program; OMB Control No. 2040–0118; EPA ICR No. 1391.04; expiring on 02 /28/98. This is a request for an extension of a currently approved collection.

Abstract: The Clean Water Act, as amended by ''The Water Quality Act of 1987'' (U.S.C. 1381–1387 *et seq.*), created a Title VI which authorizes grants to States for the establishment of State Water Pollution Control Revolving Funds (SRFs). The information activities are pursuant to section 606 of the Act, and SRF Interim Final Rule (March 1990).

The 1987 Act declares that water pollution control revolving loan funds shall be administered by an instrumentality of the State subject to the requirements of the Act. This means that each State has a general

responsibility for administering its revolving fund and must take on certain specific responsibilities in carrying out its administrative duties. The information collection activities will occur primarily at the program level through the Capitalization Grant Application and Agreement / Intended Use Plan, Annual Report, State Audit, and Financial Assistance Application Review.

The State must prepare a Capitalization Grant Application and Agreement that includes an Intended Use Plan (IUP) outlining in detail how it will use the program funds. The agreement is an instrument by which the State commits to manage its revolving fund program.

The State must agree to complete and submit an Annual Report on the uses of the fund. The report will indicate how activities financed will contribute toward meeting the goals and objectives and provides information on loan recipients, loan amounts, loan terms and project categories of eligible costs.

The State will conduct or have conducted a financial audit of its CWSRF program. The audit report will contain an opinion on the financial statements of the CWSRF, a report on its internal controls, and a report on whether the compliance requirements have been met.

Since the States provide assistance to local applicants, the States will review completed loan applications and verify that proposed projects meet all applicable Federal and State requirements.

EPA will use the Capitalization Grant Agreement and Application / Intended Use Plan, Annual Report, and Annual Audit to conduct its oversight responsibilities as mandated by the CWA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 11/21/97 (FRL–5926–1); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 1,915 hours per State response and 60 hours per local community response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Fifty states, Puerto Rico, and the recipients of assistance in these jurisdictions.

Estimated Number of Respondents: 1,530.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 186,405 hours.

Estimated Total Annualized Cost Burden: $3,573,740.

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. 1391.04 and OMB Control No. 2040–0118 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 22, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–2086 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5955–5]

Clean Air Advisory Committee Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990 to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical, scientific, and enforcement policy issues.

OPEN MEETING POLICY: Pursuant to 5 U.S.C. App. 2 section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Wednesday, February 18, 1998, from 8:30 a.m., to 3:00 p.m. at Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. Seating will be available on a first come, first served basis. Four Subcommittees will conduct meeting on Tuesday, February 17, 1998, at the same hotel at approximately the following time periods: (1) The Energy, Clean Air and Climate Change Subcommittee from 10:00 a.m. to 2:00 p.m.; (2) the Linking Transportation, Land Use and Air Quality Concerns Subcommittee from 1:00 p.m. to 5:00 p.m.; (3) the Permits/NSR/Toxics Subcommittee from 5:00 p.m. to 9:00 p.m.; and (4) the Economic Incentives and Regulatory Innovations Subcommittee from 5:00 p.m. to 9:00 p.m.

INSPECTION OF COMMITTEE DOCUMENTS: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Therefore, these documents, together with CAAAC meeting minutes, will be available by contacting Committee DFO Paul Rasmussen at (202) 260–6877.

FOR FURTHER INFORMATION: Concerning this meeting of the CAAAC, please contact Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, Fax (202) 260–4185 or by mail at US EPA, Office of Air and Radiation (Mail Code 6102), Washington, D.C. 20460. If you would like to receive an agenda for the CAAAC meeting, please leave your fax number on Mr. Rasmussen's voice mail and it will be forwarded to you.

Dated: January 22, 1998.

Robert D. Brenner,

Acting Assistant Administrator For Air and Radiation.

[FR Doc. 98–2089 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5955–6]

Public Stakeholders Meeting on the Process for Implementing the Guidelines for Carcinogen Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This document announces a stakeholders meeting sponsored by the Environmental Protection Agency's (EPA's) Science Policy Council. EPA is presenting a process for reassessing cancer assessments as part of EPA's initiative for implementing the Guidelines for Carcinogen Risk Assessment. The Guidelines were proposed in 1996. EPA also proposed an implementation process for reassessing cancer assessments in 1996 and is revising the process based on public comments. EPA is now seeking additional public comment and input on its current implementation process. The implementation process will be finalized at the same time as the Guidelines for Carcinogen Risk Assessment. The agenda will include opportunities for short stakeholder presentations, as well as structured, informal discussion based on the issues.

DATES: The meeting will begin on Tuesday, February 24, 1998, at 8:30 a.m. and end on Wednesday, February 25, 1998, at approximately 12 noon. Members of the public are invited to attend.

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel at 18th and Eads Streets in Arlington, VA.

Resolve, Inc., an EPA contractor, has sub-contracted to The Mediation Institute, the logistical support and facilitation for the meeting. EPA urges participants to pre-register with Alana Knaster or Janet Pittman, The Mediation Institute, 4508 Park Cordero, Calabasas, CA 91302, Tel: 818/591–9526, FAX: 818/591–0980 as soon as possible. Space is limited. Registrants will receive an information packet containing the draft meeting agenda, and a discussion document outlining EPA's position on several major issues, along with other meeting information.

PRESENTATIONS: Members of the public who are interested in making a short presentation on a particular issue at the stakeholder meeting are requested to sign up for one of the topic areas at the time of their registration. EPA would appreciate receiving a short summary of the presentation, which should be no more than one page. Presentations are limited to 5 minutes. Because EPA is seeking a variety of opinions, the facilitator will ensure that there is a balance of viewpoints.

SUBMITTING COMMENTS: To ensure that stakeholders who are unable to attend the meeting may present their views, EPA will also accept short written comments on the implementation process until March 27, 1998. Comments should be submitted to: Alana Knaster, same address and phone numbers as above.

Please note that all comments responding to this notice will be placed in a public administrative record. For that reason, commentors should not submit personal information such as medical data or home addresses, confidential business information or information protected by copyright. Due to limited time and resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, as well as questions about the meeting, please contact Alana Knaster, same address and phone numbers as above. The main discussion document containing the implementation process can be obtained from the EPA World Wide Web site at http://www.epa.gov/ncea/riskassf.htm.

SUPPLEMENTARY INFORMATION: EPA is presenting a process for implementing the Guidelines for Carcinogen Risk Assessment for reassessing cancer assessments. The Guidelines were developed under the auspices of the EPA's Risk Assessment Forum (RAF) and proposed in 1996 (61 FR 17960). EPA also proposed an implementation process for reassessing cancer assessments in 1996 (61 FR 32799) and is revising the process based on public comments. The implementation process will be finalized at the same time as the Guidelines for Carcinogen Risk Assessment.

It is expected that once the Guidelines become final, existing cancer assessments will need reassessment based upon the revised Guidelines. The implementation process will help the EPA and the public select and prioritize the chemicals that would need a reassessment. It will also allow a selection of new assessments to be incorporated in the schedule for the reassessments.

The four main issues for which EPA specifically seeks public opinion include: (1) The implementation process, including opportunities for public input, (2) the criteria for selection of chemicals for reassessment, (3) whether small changes can be made in toxicity assessments without completely reassessing all toxicity information, and (4) the form of external review for identification and prioritization of chemicals.

Following this meeting, EPA will use the comments to finalize the implementation process for cancer reassessments once the Guidelines for Carcinogen Risk Assessment are final.

Dated: January 22, 1998.

Dorothy E. Patton,

Director, Office of Science Policy.

[FR Doc. 98–2083 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–787; FRL–5763–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–787, must be received on or before February 27, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public

inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Amelia M. Acierto	Rm. 4W60, 4th. floor, CSI #2, 703–308–8377, e-mail:acierto.amelia@epamail.epa.gov.	2800 Crystal Drive, Arlington, VA
Adam Heyward	Rm. 206, CM #2, 703–305–5518, e-mail: heyward. adam@epamail.epa.gov.	1921 Jefferson Davis Hwy., Arlington, VA
Joseph Tavano	Rm. 214, CM #2, 703–305–6411, e-mail: tavano.joseph@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–787] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–787] and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:January 20, 1998

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Gowan Company

PP 6F4738

In May, 1996, EPA received a pesticide petition (PP 6F4738) from Gowan Company, P. O. Box 5569, Yuma, AZ 85366-5569. The petition proposed, pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish tolerances for the acaricide hexythiazox and its metabolites in or on the raw agricultural commodities stone fruits (except plums) at 1 part per million (ppm), almonds at 0.2 ppm and almond hulls at 10 ppm, and also in milk, cattle meat and cattle fat at 0.05 ppm, and cattle meat byproducts at 0.1 ppm (April 30, 1997, 62 FR 23455-23457) (FRL-5600-8). In April 1997, the registrant amended the tolerance petition by proposing to establish a tolerance for stone fruits including plums at 1 ppm, a tolerance for prunes at 5 ppm, and a tolerance for all tree nuts at 0.2 ppm. The proposed tolerances for animal products were unchanged. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. The proposed analytical method is high performance liquid chromatography with an ultraviolet detector. As required by section 408(d) of the FFDCA, as recently amended by the Food Quality Protection Act (FQPA) Pub. L. 104-170, Gowan Company included in the petition a summary of the petition and authorization for the summary to be published in the Federal Register in a notice of receipt of the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of hexythiazox in apples, citrus, grapes and pears has been studied. The major portion of the residue is parent compound. The metabolites are hydroxycyclohexyl and ketocyclohexyl analogs of hexythiazox and the amide formed by loss of the cyclohexyl ring.

2. *Analytical method*. An adequate analytical method (HPLC with UV detection) is available for enforcement purposes. Parent compound and all of its metabolites are converted to a common moiety before analysis.

3. *Magnitude of residues*. Twenty-four stone fruit residue trials were conducted over 3–years. The geographic distribution of the trials agrees with the recommendation given in the ''EPA Residue Chemistry Guidance''(1994). In these trials, the maximum combined residues of hexythiazox and its metabolites were 0.52 ppm. Twelve tree nut residue trials were conducted over 4 years. In these trials, the maximum combined residues of hexythiazox and its metabolites were 0.17 ppm in almond nutmeat and 7.5 ppm in the raw agricultural commodity almond hulls.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral and dermal LD_{50} of technical hexythiazox is greater than 5,000 milligram/kilograms (mg/kg), and the 4-hour acute inhalation LC_{50} is greater than 2 mg/L. It is not a dermal irritant or sensitizer and is a mild eye irritant.

2. *Genotoxicity*. The following genotoxicity tests were all negative:

Ames gene mutation, CHO gene mutation, CHO chromosome aberration, mouse micronucleus and rat hepatocyte unscheduled DNA synthesis.

3. *Reproductive and developmental toxicity*. Hexythiazox has not been observed to induce developmental or reproductive effects. The lowest reproductive or developmental no-observed-effect-level (NOEL) observed was 200 milligram/kilograms/day (mg/kg/day), the highest dose tested, in a 2-generation rat reproduction study.

4. *Subchronic toxicity*. The Office of Pesticide Programs has established the RfD for hexythiazox at 0.025 mg/kg/day. The RfD for hexythiazox is based on a 1–year dog feeding study with a NOEL of 2.5 mg/kg/day and an uncertainty factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males.

5. *Chronic toxicity*. The Agency has classified hexythiazox as a category C (possible human) carcinogen based on an increased incidence of hepatocellular carcinomas ($p = 0.028$) and combined adenomas/carcinomas ($p = 0.024$) in female mice at the highest dose tested (1,500 ppm) when compared to the controls as well as a significantly increased ($p > 0.001$) incidence of pre-neoplastic hepatic nodules in both males and females at the highest dose tested. The decision supporting a category C classification was based primarily on the fact that only one species was affected and mutagenicity studies were negative. In classifying hexythiazox as a category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of liver tumors in the female mouse. A Q^{1*} of 0.039 $(mg/kg/day)^{-1}$ in human equivalents was calculated.

C. Aggregate Exposure

Tolerances have been established (40 CFR 180.448) for the combined residues of hexythiazox [trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide] and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety in or on apples at 0.02 ppm and pears at 0.3 ppm. The nature and metabolism of hexythiazox in plants and animals is adequately understood.

Hexythiazox is also registered for use on outdoor ornamental plants by commercial applicators only. It is believed that non-occupational exposure from this use is very low. Hexythiazox is not registered for greenhouse, lawn, garden, or residential use. The environmental fate of hexythiazox has been evaluated, and the compound is not expected to contaminate groundwater or surface water to any measurable extent.

1. *Dietary exposure*. The Agency has calculated in the **Federal Register** of February 21, 1996 (61 FR 6152-6154) (FRL-5350-6), that current uses on apples and pears would result in an exposure of 0.000051 mg/kg/day for the U.S. population, assuming that all residues are at tolerance levels and 100% of the crops are treated. Non-nursing infants, the subgroup having the highest exposure, would have an exposure of 0.000600 mg/kg/day. Using the same conservative assumptions, it is calculated that the current and proposed uses together would result in an exposure of 0.001133 mg/kg for the U.S. population and 0.007256 mg/kg/day for non-nursing infants, which remains the most highly exposed subgroup.

Actual exposure will be much lower, however. Only a small fraction of these crops will be treated with hexythiazox, and average residues are far below the tolerance levels. For example, residues in apples treated at 10 times the currently approved application rate remained below the limit of quantitation, 0.01 ppm. Also, residues in apple juice are expected to be less than 50% of the residue level in the whole fruit. Average residues in stone fruits except cherries are expected to be 7% of the proposed tolerance level, average residues in cherries are expected to be 11% of the tolerance level and average residues in almond nutmeat are expected to be below 20% of the proposed tolerance level. Furthermore, only a very small percentage of crops (less than 1% up to 5%, depending on the crop) are expected to be treated with hexythiazox. When actual residues rather than tolerance levels and the percentage of treated crop are taken into account, then the actual exposure is estimated to be 0.0000069 mg/kg/day for the U.S. population.

2. *Drinking water*. The Agency has not conducted a detailed analysis of potential exposure to hexythiazox via drinking water or outdoor ornamental plants. However, it is believed that chronic exposure from these sources is very small.

3. *Non-dietary exposure*. No developmental, reproductive or mutagenic effects have been observed with hexythiazox. Therefore, an analysis of acute exposure has not been conducted.

D. Cumulative Effects

At this time the Agency has not reviewed available information concerning the potentially cumulative effects of hexythiazox and other substances that may have a common mechanism of toxicity. For purposes of this petition only, the Agency is considering only the potential risks of hexythiazox in its aggregate exposure.

E. Determination of Safety for U.S. Population

1. *Chronic risk*. The Agency has calculated (FR 61 6152-6154), assuming that residues are at tolerance levels and 100% of crops are treated, that the current use on apples and pears utilizes 0.2% of the reference dose (RfD) for the U.S. population and 2.4% of the RfD for non-nursing infants. Using these same assumptions, it is calculated that all current and proposed uses would result in TMRCs equivalent to 4.5% of the RfD for the U.S. population and 29.0% of the RfD for non-nursing infants. However, when actual residues rather than tolerance levels and the percent of crop treated are taken into account, actual chronic risk for the U.S. population is expected to be only 0.43% of the RfD.

The actual dietary carcinogenic risk to the U.S. population is calculated to be 2.7×10^{-7}, which is below the Agency's criterion of 1×10^{-6}.

2. *Acute risk*. An estimate of acute risk with this compound has not been conducted since no acute reproductive or developmental effects have been observed.

F. Determination of Safety for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of hexythiazox, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during pre-natal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

No developmental or reproductive effects have been observed in any study with hexythiazox. The lowest acute NOEL was 2,400 ppm in the diet (200 mg/kg/day), the highest dose tested, in the 2-generation rat reproduction study. In the rat developmental study, the maternal and fetotoxic NOEL was 240 mg/kg/day and the developmental

NOEL was 2,160 mg/kg/day, the highest dose tested. In the rabbit developmental study, the maternal and developmental NOEL was 1,080 mg/kg/day, the highest dose tested.

Taking into account current toxicological data requirements, the database for hexythiazox relative to pre-natal and post-natal effects is complete. In the rat developmental study, the NOELs for maternal toxicity and fetotoxicity were the same, which suggests that there is no special pre-natal sensitivity in the absence of maternal toxicity. Furthermore, the lowest developmental or reproductive NOEL is two orders of magnitude higher than the chronic NOEL on which the RfD is based. It is concluded that there is a reasonable certainty of no harm to infants and children from aggregate exposure to hexythiazox residues.

G. International Tolerances

Codex maximum residue levels (MRLs) of 1 mg/kg (1 ppm) have been established for residues of hexythiazox in cherries and peaches. The U.S. tolerance proposal for stone fruits is in harmony with these MRLs. There are no Codex MRLs for the other commodities in this petition. There are no Canadian or Mexican MRLs for hexythiazox. (Adam Heyward)

2. Monsanto Company

PP 5E4503

EPA has received a pesticide petition (PP 5E4503) from Monsanto Company, 700 14th St., NW., Washington, DC 20005, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the inert ingredient 4-(dichloroacetyl)-1-oxa-4-azospiro [4.5] decane (MON 4660) in or on the raw agricultural commodity, corn, resulting from early post-emergence applications. The analytical method, which determines the residue by gas-liquid chromatography using an electron-capture detector has been reviewed by the Agency and accepted for enforcement purposes. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of MON 4660 in corn was studied with radiolabeled MON 4660 in the greenhouse and the field. Parent MON 4660 was not found in any of the corn samples. MON 4660 is rapidly and extensively metabolized to a large number of highly polar metabolites characterized as weak organic acids or residues conjugated to natural sugars.

2. *Analytical method*. Monsanto has developed an analytical method using gas liquid chromatography with electron capture detection that has a verified limit of quantitation of 0.005 ppm for parent MON 4660 in all corn matrices. This method has been validated by the Agency.

3. *Magnitude of residues*. Monsanto has conducted 14 residue field studies with MON 4660 applied pre-emergence to corn. Analysis of corn forage, silage, fodder and grain showed no residues above the limit of quantitiation of 0.005 ppm. Two residue field studies with MON 4660 applied pre-emergence to corn at rates 20 and 28 times the proposed maximum use rate showed no measurable residues (<0.005 ppm) in corn grain. Based on these results it was concluded that the potential for measurable concentration of MON 4660 in processed commodities of corn was very low. Eight residue field trials (2 samples per trial) were conducted with MON 4660 applied early post-emergence with corn plants 6 to 11 inches tall. Analysis of corn forage, fodder and grain again showed no measurable residues (<0.005 ppm). These residues, derived from postemergence applications are below the established Sensitivity of Method Tolerance for corn (0.005 ppm).

B. Toxicological Profile

The toxicology data considered in support of the revised tolerance include the following:

1. *Acute toxicity*— i. An acute oral toxicity study in the rat with an LD_{50} of 2,600 mg/kg. Toxicity Category III.

ii. An acute dermal toxicity study in the rabbit with an LD_{50} of > 5,000 mg/kg. Toxicity Category IV.

iii. An acute inhalation study in the rat with a 4-hour inhalation LC_{50} of 0.27 mg/L. Toxicity Category III.

iv. A rabbit eye irritation study in which 4-(dichloroacetyl)-1-oxa-4-azospiro [4.5] decane is determined not to be an eye irritant. Toxicity Category III.

v. A dermal irritation study which exhibited slight skin irritation. Toxicity Category IV.

vi. A guinea pig dermal sensitization study in which 4-(dichloroacetyl)-1-oxa-4-azospiro [4.5] decane is determined to be a skin sensitizer.

2. *Genotoxicity*. Mutagenicity studies including *Salmonella typhimurium*/mammalian plate incorporation (Ames) assay, CHO/HGPRT gene mutation assay, DNA repair studies (rat hepatocytes), and *Salmonella*/mammalian activation gene mutation (Ames) assay were negative with and without activation.

3. *Reproductive and developmental toxicity*— i. A rat developmental effects study with a NOEL for maternal toxicity of 10 mg/kg/day and developmental toxicity of 75 mg/kg/day.

ii. A rabbit developmental effects study with a NOEL for maternal toxicity of 10 mg/kg/day and developmental toxicity of 30 mg/kg/day.

iii. A 2-generation reproduction study in the rat fed diet levels of 0, 10, 100, and 1,000 ppm. There were no treatment-related effects on mating, fertility or offspring survival in this study. The NOEL for toxicity in parental animals and offspring was 100 ppm (6 to 7 mg/kg/day). As there were no adverse effects on reproductive performance, the NOEL for reproductive toxicity was 1,000 ppm (57 to 72 mg/kg/day).

4. *Subchronic toxicity*— i. A 90–day oral toxicity study in the rat with a NOEL of 120 parts per million (ppm) or 12 mg/kg/day.

ii. A 90-day oral (gavage) study in the dog with a NOEL of 30 mg/kg/day, the highest dose tested.

5. *Chronic toxicity*— i. A mouse oncogenicity study in which 5 groups of 60 male and 60 female CD-1 mice were administered diets containing 4-(dichloroacetyl)-1-oxa-4-azospiro [4.5] decane at concentrations 0, 5, 80, 800 or 2,500 ppm for approximately 18 months. These concentrations corresponded to 0, 0.7, 10.7, 108 and 350 mg/kg/day in males and 0, 1, 16.8, 167 and 556 mg/kg/day in females. The primary target organs were liver, lung and stomach. The NOEL for both oncogenic and non-oncogenic effects was considered to be 10.7 mg/kg/day in males and 116.8 mg/kg/day in females.

ii. A chronic toxicity/oncogenicity study in rats in which 5 groups of 60 male and 60 female rats were administered diets containing 4-(dichloroacetyl)-1-oxa-4-azospiro [4.5] decane for approximately 23 months. Target concentrations were 0, 5, 50, 500, or 1,600 ppm for males and, 0, 5, 50, or 1,200 ppm for females. These concentrations correspond to 0, 0.2, 2.2, 22 and 71 mg/kg/day in males and 0, 0.3, 2.8, 29 and 69 mg/kg/day in females. The primary effects in this study occurred in the liver and stomach. The NOEL for oncogenic effects is 22 mg/kg/day in males and 29 mg/kg/day in females. The NOEL for non-

oncogenic effects is 2.2 mg/kg/day in males and 2.8 mg/kg/day in females.

6. *Animal metabolism*. Because field trial residue data showed non-detectable residues of MON 4660 in corn, neither animal metabolism nor residue transfer studies with livestock were required. It is considered likely that metabolism will be similar to that of other dichloroacetamide safeners in mammals which are characterized by extensive metabolism and elimination of most of the residue from the body with very low levels of parent safener, if any, retained in the tissues. The major route of metabolism is typically glutathione conjugation followed by formation of an aldehyde intermediate which is then either oxidized to an oxamic acid or reduced to the corresponding alcohol.

7. *Metabolite toxicology*. The metabolism of MON 4660 is extensive and results in a large number of polar metabolites each of which is present in soil or corn plants in very low concentrations. These metabolites have not been identified as being of toxic concern.

Based on the available toxicity data, Monsanto believes the RfD for MON 4660 will be 0.02 mg/kg/day based on a 2–year feeding study in rats with a NOEL of 2.2 mg/kg/day and application of an uncertainty factor of 100. For cancer risk assessment for MON 4660, Monsanto believes that margin of exposure assessment should be calculated using the carcinogenic NOEL of 10.7 mg/kg/day observed in the mouse, which was the most sensitive species.

C. Aggregate Exposure

1. *Dietary exposure*— i. *Food*. Monsanto has used the Theoretical Maximum Residue Contribution as a conservative estimate of the potential dietary exposure for MON 4660. This approach assumes that 100% of all raw agricultural commodities for which tolerances have been established for acetochlor, bear tolerance-level (0.005 ppm) residues of MON 4660. This over-estimate of actual dietary exposure provides a quite conservative basis for risk assessment.

ii. *Drinking water*. Although MON 4660 is stable to hydrolyis and shows only a small amount of photodegradation in soil and in water, it is rapidly degraded in the soil. The aerobic soil half-life is approximately 18 days. This low persistence in the environment combined with the low application rate (maximum of 0.4 pound per acre) indicates that MON 4660 is not likely to be present in groundwater. Based on these considerations, Monsanto does not anticipate exposure to residues of MON 4660 in drinking water. The EPA has not established a Maximum Concentration Level or a health advisory level for residues of MON 4660 in drinking water.

2. *Non-dietary exposure*. MON 4660 is used only as a safener or antidote to the effects of acetochlor herbicide on corn seed or seedlings. It is sold only as part of acetochlor herbicide end-use products which are classified as Restricted Use by EPA which means they are used only by certified applicators and are not available to the general public. Herbicide products containing MON 4660 are not registered for residential, home owner, or other non-crop uses. They are thus not used in parks, school grounds, public buildings, roadsides or rights-of-way or other public areas. Commercial cornfields are generally located well away from public areas where incidental contact could occur. Therefore, the general public is very unlikely to have any non-dietary exposure to MON 4660.

D. Cumulative Effects

Monsanto has no reliable data or information to suggest that MON 4660 has toxic effects that arise from toxic mechanisms that are common to other substances. Therefore, a consideration of common toxic mechanism and cumulative effects with other substances is not appropriate for MON 4660, and Monsanto is considering only the potential effects of MON 4660 in this exposure assessment.

E. Safety Determination

1. *U.S. population*— i. *Chronic risk*. The conservative estimate of aggregate chronic exposure is 2.0×10^{-6} mg/kg/day. This potential exposure represents only 0.01% of the RfD of 0.02 mg/kg/day and provides a Margin of Exposure of 5,350,000 when compared to the 10.7 mg/kg/day carcinogenic reference point. EPA generally has no concern for exposures below 100% of the RfD and there are adequate margins of safety for cancer. Monsanto concludes there is a reasonable certainty of no harm resulting from exposure to MON 4660.

ii. *Acute risk*. The acute toxicity of MON 4660 is low, and there are no concerns for acute dietary, occupational or non-occupational exposures to MON 4660.

2. *Infants and children*. Employing the same conservative TMRC estimates of exposure used in the risk assessment for the general population, Monsanto has calculated that the aggregate exposures for nursing infants, non-nursing infants, children age 1–6 and children age 7–12 are less than one-tenth of 1% of the RfD for each group.

Monsanto notes the developmental toxicity NOELs for rats (75 mg/kg/day) and rabbits (30 mg/kg/day) are 34-fold and 14-fold higher than the NOEL of 2.2 mg/kg/day in the chronic rat study on which the RfD is based. This indicates that the RfD is adequate for assessing risk to children. Also, the developmental toxicity NOELs for rats and rabbits are higher than the NOELs for maternal toxicity (10 mg/kg/day in each specie) indicating that the offspring were no more sensitive to MON 4660 than were the parents.

In the 2-generation reproduction study in rats, the NOEL for pup toxicity (57-72 mg/kg/day) was higher than the NOEL for parental or systemic effects (6-7 mg/kg/day) indicating that offspring were no more sensitive to MON 4660 than were the parents. Also, the NOEL for pup toxicity (57-72 mg/kg/day) was 25 to 33-fold higher than the NOEL for chronic toxicity upon which the RfD is based.

Monsanto believes that these data do not indicate an increased pre-natal or post-natal sensitivity of children and infants to MON 4660 exposure and concludes that the 100-fold uncertainty factor used in the RfD is adequate to protect infants and children.

F. International Tolerances

The Codex Alimentarius Commission has not established a maximum residue level for MON 4660. (Amelia Acierto)

3. Rohm and Haas Company

PP 5F4587

EPA has received a pesticide petition (PP 5F4587) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106-2399, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of Tebufenozide, benzoic acid,3,5-dimethyl-,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide in or on the raw agricultural commodity pecans at .05 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of tebufenozide in plants (apples, beets,

grapes, rice and sugar) is adequately understood for the purposes of these tolerances. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage. The metabolism of tebufenozide in goats and hens proceeds along the same metabolic pathway as observed in plants. No accumulation of residues in tissues, milk or eggs occurred.

2. *Analytical method*. High performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective detection has been developed for pecans. The method involves Soxhlet extraction with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method is 0.01 ppm (HPLC) analytical method using (UV) or mass selective detection has been developed for pecans. The method involves Soxhlet extraction with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method is 0.01 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Tebufenozide has low acute toxicity. Tebufenozide Technical was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Tebufenozide Technical was not significantly toxic to rats after a 4-hr inhalation exposure with an LC_{50} value of 4.5 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects.

2. *Genotoxicity*. Tebufenozide technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation and in a reverse mutation assay with E. *coli*. Tebufenozide technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, tebufenozide technical did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Tebufenozide did not produce chromosome effects *in vivo* using rat bone marrow cells or *in vitro* using Chinese hamster ovary cells (CHO). On the basis of the results from this battery of tests, it is concluded that tebufenozide is not mutagenic or genotoxic.

3. *Reproductive and developmental toxicity*— i. No Observable Effect Levels (NOELs) for developmental and maternal toxicity to tebufenozide were established at 1,000 mg/kg/day (Highest Dose Tested) in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOEL of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOEL 10 ppm 0.85 mg/kg/day. Equivocal reproductive effects were observed only at the 2,000 ppm dose.

iii. In a second rat reproduction study, the equivocal reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149-195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9-2.3 mg/kg/day).

4. *Subchronic toxicity*— i. The NOEL in a 90–day rat feeding study was 200 ppm (13 mg/kg/day for males, 16 mg/kg/day for females). The Lowest Observed Effect Level (LOEL) was 2,000 ppm (133 mg/kg/day for males, 155 mg/kg/day for females). Decreased body weights in males and females was observed at the LOEL of 2,000 ppm. As part of this study, the potential for tebufenozide to produce subchronic neurotoxicity was investigated. Tebufenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOEL = 1,330 mg/kg/day for males, 1,650 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOEL was 20 ppm (3.4 and 4.0 mg/kg/day for males and females, respectively). The LOEL was 200 ppm (35.3 and 44.7 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in male mice at the LOEL of 200 ppm.

iii. A 90–day dog feeding study gave a NOEL of 50 ppm (2.1 mg/kg/day for males and females). The LOEL was 500 ppm (20.1 and 21.4 mg/kg/day for males and females, respectively). At the LOEL, females exhibited a decrease in rate of weight gain and males presented an increased reticulocyte.

iv. A 10-week study was conducted in the dog to examine the reversibility of the effects on hematological parameters that were observed in other dietary studies with the dog. Tebufenozide was administered for 6 weeks in the diet to 4 male dogs at concentrations of either 0 or 1,500 ppm. After the 6th week, the dogs receiving treated feed were switched to the control diet for 4 weeks. Hematological parameters were measured in both groups prior to treatment, at the end of the 6–week treatment, after 2–weeks of recovery on the control diet and after 4–weeks of recovery on the control diet. All hematological parameters in the treated/recovery group were returned to control levels indicating that the effects of tebufenozide on the hemopoietic system are reversible in the dog.

v. In a 28-day dermal toxicity study in the rat, the NOEL was 1,000 mg/kg/day, the highest dose tested. Tebufenozide did not produce toxicity in the rat when administered dermally for 4–weeks at doses up to and including the limit dose of 1,000 mg/kg/day.

5. *Chronic toxicity*— i. A 1–year feeding study in dogs resulted in decreased red blood cells, hematocrit, and hemoglobin and increased Heinz bodies, reticulocytes, and platelets at the LOEL of 8.7 mg/kg/day. The NOEL in this study was 1.8 mg/kg/day.

ii. An 18-month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 1,000 ppm, the highest dose tested.

iii. In a combined rat chronic/oncogenicity study, the NOEL for chronic toxicity was 100 ppm (4.8 and 6.1 mg/kg/day for males and females, respectively) and the LOEL was 1,000 ppm (48 and 61 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (goat, hen, rat) metabolism studies.

7. *Metabolite toxicology*. Common metabolic pathways for tebufenozide have been identified in both plants (apple, beet, grape, and sugar) and animals (goat, hen, rat). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct in vitro estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Tolerances for residues of tebufenozide are currently expressed as benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2(4-ethylbenzoyl) hydrazide. Tolerances currently exist for residues on apples at 1.0 ppm (import tolerance) and on walnuts at 0.1 ppm (see 40 CFR 180.482). In addition to this action, a request to establish a tolerance for pecans, other petitions are pending for the following tolerances: pome fruit, livestock commodities, wine grapes (import tolerance), cotton, the crop subgroups leafy greens, leaf petioles, head and stem Brassica and leafy Brassica greens, and kiwifruit (import tolerance).

ii. *Acute risk*. No appropriate acute dietary endpoint was identified by the Agency. This risk assessment is not required.

iii. *Chronic risk*. For chronic dietary risk assessment, the tolerance values are used and the assumption that all of these crops which are consumed in the U.S. will contain residues at the tolerance level. The theoretical maximum residue contribution (TMRC) using existing and future potential tolerances for tebufenozide on food crops is obtained by multiplying the tolerance level residues (existing and proposed) by the consumption data which estimates the amount of those food products consumed by various population subgroups and assuming that 100% of the food crops grown in the U.S. are treated with tebufenozide. The Theoretical Maximum Residue Contribution (TMRC) from current and future tolerances is calculated using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989-1992 survey. With the current and proposed uses of tebufenozide, the TMRC estimate represents 20.1% of the RfD for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 52.0% of the RfD. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. The chronic dietary risks from these uses do not exceed EPA's level of concern.

3. *Drinking water*. An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Review of environmental fate data by the Environmental Fate and Effects Division concludes taht tebufenozide is moderately persistent to persistent and mobile, and could potentially leach to groundwater and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation studies, residues of tebufenozide and its soil metabolites showed no downward mobility and remained associated with the upper layers of soil. Foliar interception (up to 60% of the total dosage applied) by target crops reduces the ground level residues of tebufenozide. There is no established Maximum Concentration Level (MCL) for residues of tebufenozide in drinking water. No drinking water health advisory levels have been established for tebufenozide.

There are no available data to perform a quantitative drinking water risk assessment for tebufenozide at this time. However, in order to mitigate the potential for tebufenozide to leach into groundwater or runoff to surface water, precautionary language has been incorporated into the product label. Also, to the best of our knowledge, previous experience with more persistent and mobile pesticides for which there have been available data to perform quantitative risk assessments have demonstrated that drinking water exposure is typically a small percentage of the total exposure when compared to the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and based on our knowledge of previous experience with persistent chemicals, significant exposure from residues of tebufenozide in drinking water is not anticipated.

4. *Non-dietary exposure*. Tebufenozide is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of tebufenozide with other substances that have a common mechanism of toxicity was considered. Tebufenozide belongs to the class of insecticide chemicals known as diacylhydrazines. The only other diacylhydrazine currently registered for non-food crop uses is halofenozide. Tebufenozide and halofenozide both produce a mild, reversible anemia following subchronic/chronic exposure at high doses; however, halofenozide also exhibits other patterns of toxicity (liver toxicity following subchronic exposure and developmental/systemic toxicity following acute exposure) which tebufenozide does not. Given the different spectrum of toxicity produced by tebufenozide, there is no reliable data at the molecular/mechanistic level which would indicate that toxic effects produced by tebufenozide would be cumulative with those of halofenozide (or any other chemical compound).

In addition to the observed differences in mammalian toxicity, tebufenozide also exhibits unique toxicity against target insect pests. Tebufenozide is an agonist of 20-hydroxyecdysone, the insect molting hormone, and interferes with the normal molting process in target lepidopteran species by interacting with ecdysone receptors from those species. Unlike other ecdysone agonists such as halofenozide, tebufenozide does not produces symptoms which may be indicative of systemic toxicity in beetle larvae (Coleopteran species). Tebufenozide has a different spectrum of activity than other ecdysone agonists. In contrast to the other agonists such as halofenozide which act mainly on coleopteran insects, tebufenozide is highly specific for lepidopteran insects.

Based on the overall pattern of toxicity produced by tebufenozide in mammalian and insect systems, the compound's toxicity appears to be distinct from that of other chemicals, including organochlorines,

organophosphates, carbamates, pyrethroids, benzoylureas, and other diacylhydrazines. Thus, there is no evidence to date to suggest that cumulative effects of tebufenozide and other chemicals should be considered.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the dietary exposure to tebufenozide from the current and future tolerances will utilize 20.1% of the RfD for the U.S. population and 52.0% for non-nursing infants under 1–year old. Using anticipate residue levels for these crops utilizes 3.38% of the RfD for the U.S. population and 12.0% for non-nursing infants. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues to the U.S. population and non-nursing infants.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2-generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during pre-natal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOEL of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F1 dams. These effects were not replicated at the same dose in a second 2–generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOEL equal to 149-195 mg/kg/day) and the NOEL for systemic toxicity was determined to be 25 ppm (1.9-2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide. (Joseph Tavano)

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BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00518; FRL–5761–7]

Test Guidelines; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA has established a unified library for Test Guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS), and is announcing the availability of final test guidelines for Series 835—Fate, Transport and Transformation. These final guidelines are for the Office of Pollution Prevention and Toxics (OPPT) and have been harmonized with test guidelines of the Organization for Economic Cooperation and Development (OECD). The draft guidelines were made available by notice in the **Federal Register** (61 FR 16486, April 15, 1996)(FRL–5363–1) and were peer reviewed at a Scientific Advisory Panel (SAP) meeting on May 30, 1996. These final guidelines incorporate changes recommended by the SAP and other changes resulting from public comment. This notice also describes the unified library of OPPTS Test Guidelines. The Agency issues Federal Register notices periodically as new test guidelines are added to the OPPTS unified library.

ADDRESSES: The guidelines are available from the U.S. Government Printing Office, Washington, DC 20402 on *The Federal Bulletin Board*. By modem dial (202) 512–1387, telnet and ftp: fedbbs.access.gpo.gov (IP 162.140.64.19), or call (202) 512–0132 for disks or paper copies. The guidelines are also available electronically in ASCII and PDF (portable document format) from the EPA's World Wide Web site (http://www.epa.gov/epahome/research.htm) under the heading ''Researchers and Scientists/Test Methods and Guidelines/Harmonized Test Guidelines.''

FOR FURTHER INFORMATION CONTACT: For general information: By mail:

Toxic Substances Control Act (TSCA) information: Contact the TSCA Hotline at: TATS/7408, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone number: (202) 554–1404; fax: (202) 554–5603, e-mail: TSCA-hotline@epamail.epa.gov.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) information: Contact the Communications Services Branch (7506C), Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone number: (703) 305–5017; fax: (703) 305–5558.

For technical questions only on Series 835 OPPT test guidelines: Robert Boethling, (202) 260–3912, or e-mail: boethling.bob@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. EPA's Process for Developing a Unified Library of Test Guidelines

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) has been engaged in a multi-year project to harmonize and/or update test guidelines among the Office of Pesticide Programs (OPP), the Office of Pollution Prevention and Toxics (OPPT), and the Organization for Economic Cooperation and Development (OECD). The goals of the project include the formulation of

harmonized OPP and OPPT guidelines for those in common between the two programs, the harmonization of OPPT and/or OPP guidelines with those of the OECD, the updating of any guidelines unique to OPP or OPPT programs, and the addition of several new guidelines.

Testing guidelines that are changed substantively in the harmonization process or through other updating/amending activities, or which are new (e.g., for a previously unaddressed testing endpoint) will be made available for public comment by notice in the **Federal Register**. Additionally, EPA submits substantively revised and new test guidelines to peer review by expert scientific panels. Guidelines which are reformatted but not changed in any substantive way are not made available for public comment or submitted to peer review.

All final guidelines will be made available through the GPO Electronic Bulletin Board and the Internet on the EPA World Wide Web home page as a unified library of OPPTS Test Guidelines for use by either EPA program office. Printed versions of the unified library of OPPTS test guidelines will also be available to the public through the GPO. For purposes of this **Federal Register** notice, ''publication'' of the unified library of guidelines generally describes the availability of these final guidelines through the GPO and Internet. Because harmonization and updating is an ongoing task that will periodically result in modified guidelines, some guidelines being made available via GPO and Internet will be revised in the future. These efforts will ensure that industry is provided with testing guidelines that are current.

The test guidelines appearing in the unified library will be given numerical designations that are different from the designations provided at 40 CFR parts 158, 795, 796, 797, 798, and 799. OPPTS test guidelines will be published in 10 disciplinary series as follows:

Series 810—Product Performance Test Guidelines

Series 830—Product Properties Test Guidelines

Series 835—Fate, Transport and Transformation Test Guidelines

Series 840—Spray Drift Test Guidelines

Series 850—Ecological Effects Test Guidelines

Series 860—Residue Chemistry Test Guidelines

Series 870—Health Effects Test Guidelines

Series 875—Occupational and Residential Exposure Test Guidelines

Series 880—Biochemicals Test Guidelines

Series 885—Microbial Pesticide Test Guidelines

The Agency issues **Federal Register** notices periodically announcing any new test guidelines added to the OPPTS unified library. As each set of guidelines is published, it will be accompanied by a Master List which cross references the new OPPTS guideline numbers to the original OPP and OPPT numbers.

II. Series 835 Changes

Significant changes to the Series 835 test guidelines include addition of a new guideline, Biodegradability in Sea Water, in OPPTS 835.3160; recommendation of the alkali addition method in the Sealed Vessel Carbon Dioxide Production Test in OPPTS 835.3120; clarification of guideline scope with respect to redox conditions and recommendation of field temperature incubation in the Sediment/Water Microcosm Biodegradation Test in OPPTS 835.3180; discussion of the importance of maintaining influent dissolved organic carbon (DOC) levels and addition of language to permit periodic wastage of sludge in the Porous Pot Test in OPPTS 835.3220; and discussion of evidence supporting the contention that treated (deactivated) sludge retains the characteristics of viable sludge in the Activated Sludge Sorption Isotherm Test in OPPTS 835.1110. In addition, test guideline OPPTS 835.3400, Anaerobic Biodegradability of Organic Chemicals, is retained despite several negative comments on the method. Major revisions to this protocol are presently being considered in several fora (ASTM; ISO; OECD) and EPA intends to revisit this topic when consensus is reached on certain technical issues. Explicit test requirements for pesticide registration are set out in 40 CFR part 158 which refers to specific guidelines by guideline number. Studies initiated 45 days or more after final publication should be performed in accordance with the revised guidelines.

III. Public Record

A detailed description of the response to comments and the changes to each guideline are available under docket control number OPP–00518 in the Public Docket and Freedom of Information Section, Office of Pesticide Programs, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; telephone 703–305–5805, or by mail: Public Docket and Freedom of Information Section, Office of Pesticide Programs, Field Operations Division (7506C), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

IV. Notice of Availability of Final Test Guidelines

This notice announces the availability of final test guidelines for OPPT in the 835 Series. The following is the list of guidelines being made available at this time.

Series 835—Fate, Transport and Transformation Test Guidelines

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OTS	OPP	OECD	712–C–
	Group A—Laboratory Transport Test Guidelines.				
835.1110	Activated sludge sorption isotherm	none	none	none	98–298
835.1210	Soil thin layer chromatography	796.2700	none	none	98–047
835.1220	Sediment and soil adsorption/desorption isotherm	796.2750	none	106	98–048
	Group B—Laboratory Abiotic Transformation Test Guidelines.				
835.2110	Hydrolysis as a function of pH	796.3500	none	111	98–057
835.2130	Hydrolysis as a function of pH and temperature	796.3510	none	none	98–059
835.2210	Direct photolysis rate in water by sunlight	796.3700	none	none	98–060
835.2310	Maximum direct photolysis rate in air from UV/visible spectroscopy	796.3800	none	none	98–066
	Group C—Laboratory Biological Transformation Test Guidelines.				
835.3100	Aerobic aquatic biodegradation	796.3100	none	none	98–075

Series 835—Fate, Transport and Transformation Test Guidelines—Continued

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OTS	OPP	OECD	712–C–
835.3110	Ready biodegradability	796.3180, .3200, .3220, .3240, .3260	none	301	98–076
835.3120	Sealed-vessel carbon dioxide production test	none	none	none	98–311
835.3160	Biodegradability in sea water	none	none	306	98–351
835.3170	Shake flask die-away test	none	none	none	98–297
835.3180	Sediment/water microcosm biodegradation test	none	none	none	98–083
835.3200	Zahn-Wellens/EMPA test	796.3360	none	302B	98–084
835.3210	Modified SCAS test	796.3340	none	302A	98–085
835.3220	Porous pot test	none	none	none	98–301
835.3300	Soil biodegradation	796.3400	none	304A	98–088
835.3400	Anaerobic biodegradability of organic chemicals	796.3140	none	none	98–090
	Group E—Transformation Chemical-Specific Test Guidelines.				
835.5045	Modified SCAS test for insoluble and volatile chemicals	795.45	none	none	98–097
835.5154	Anaerobic biodegradation in the subsurface	795.54	none	none	98–098
835.5270	Indirect photolysis screening test: Sunlight photolysis in waters containing dissolved humic substances	795.70	none	none	98–099

List of Subjects

Environmental Protection, Test guidelines.

Dated: January 8, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–1769 Filed 1–27–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Submitted to OMB for Review and Approval

January 16, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 27, 1998. OMB Notification of Action is due on or before March 30, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: On October 17, 1997, the Commission released a Report and Order and Second Further Notice of Proposed Rulemaking, FCC 97–376, which addresses rules and policies concerning cable inside wiring. Among other things, this rulemaking amends the Commission's regulations relating to the disposition of cable home wiring and related issues including the sharing of molding, the demarcation point for multiple dwelling unit buildings (''MDUs''), loop-through cable wiring configurations, customer access to cable home wiring before termination of service, and signal leakage.

OMB Approval Number: 3060–0692.

Title: Home Wiring Provisions.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 30,500 (20,500 multichannel video program distributors and 10,000 multiple dwelling unit building owners).

Estimated Time Per Response: 5 minutes–20 hours.

Total Annual Burden to Respondents: 46,114 hours, calculated as follows: This collection (3060–0692) accounts for all information collection requirements that may come into play during the disposition of cable home wiring in single dwelling units, as well as the disposition of home run wiring and cable home wiring in MDUs. All multichannel video programming distributors (''MVPDs''), both cable and non-cable alike, are now subject to these disposition rules. Pursuant to the Paperwork Reduction Act, when modifying only portions of an information collection, agencies are still obligated to put forth the entire collection for public comment.

This information collection now accounts for the information collection requirement stated in 47 CFR 76.613,

where MVPDs causing harmful signal interference may be required by the Commission's engineer in charge (EIC) to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures. Through the course of this rulemaking proceeding, the Commission identified this collection as not having previously been reported to OMB for approval. We estimate that no more than 10 interference reports will be submitted annually to the Commission's EIC, each having an average burden of 2 hours to prepare. (10 reports×2 hours = 20 hours). 47 CFR 76.620 applies the Commission's signal leakage rules to all non-cable MVPDs. Our rules require that each cable system perform an independent signal leakage test annually, therefore, non-cable MVPDs will now be subject to the same requirement. We recognize, however, that immediate compliance with these requirements may present hardships to existing non-cable MVPDs not previously subject to such rules. We will allow a five-year transition period from the effective date of these rules to afford non-cable MVPDs time to comply with our signal leakage rules other than § 76.613. The transition period will apply only to systems of those non-cable MVPDs that have been substantially built as of January 1, 1998. Considering non-cable MVPD systems that will be built as of January 1, 1998, we estimate that 500 new entities will be subject to signal leakage filing requirements, with an estimated burden of 20 hours per entity. (500 systems×20 hours = 10,000 hours). 47 CFR 76.802, Disposition of Cable Home Wiring, gives individual video service subscribers in single unit dwellings and MDUs the opportunity to purchase their cable home wiring at replacement cost upon voluntary termination of service. In calculating hour burdens for notifying individual subscribers of their purchase rights, we make the following assumptions: There are approximately 20,000 MVPDs serving approximately 72 million subscribers in the United States. The average rate of churn (subscriber termination) for all MVPDs is estimated to be 1% per month, or 12% per year. MVPDs own the home wiring in 50% of the occurrences of voluntary subscriber termination and subscribers or property owners already have gained ownership of the wiring in the other 50% of occurrences (e.g., where the MVPD has charged the subscriber for the wiring upon installation, has treated the wiring as belonging to the subscriber for tax purposes, or where state and/or local law treats cable home wiring as a fixture). Where MVPDs own the wiring, we estimate that they intend to actually remove the wiring 5% of the time, thus initiating the disclosure requirement. We believe in most cases that MVPDs will choose to abandon the home wiring because the cost and effort required to remove the wiring generally outweigh its value. The burden to disclose the information at the time of termination will vary depending on the manner of disclosure, e.g., by telephone, customer visit or registered mail. Virtually all voluntary service terminations are done by telephone. The estimated average time consumed in the process of the MVPD's disclosure and subscriber's election is 5 minutes (.083 hours). Estimated annual number of occurrences is 72,000,000×12%×50%×5%=216,000. (216,000×.083 hours=17,928 hours).

In addition, 47 CFR 76.802 states that if a subscriber in an MDU declines to purchase the wiring, the MDU owner or alternative provider (where permitted by the MDU owner) may purchase the home wiring where reasonable advance notice has been provided to the incumbent. According to the Statistical Abstracts of the United States, 1995 at 733 Table No. 1224, over 28 million people resided in MDUs with three or more units in 1993. We therefore estimate that there are currently 30 million MDU residents and that MDUs house an average of 50 residents, and so we estimate that there are approximately 600,000 MDUs in the United States. We estimate that 2,000 MDU owners will provide advance notice to the incumbent that the MDU owner or alternative provider (where permitted by the MDU owner) will purchase the home wiring where a terminating individual subscriber declines. The estimated average time for MDU owners to provide such notice is estimated to be 15 minutes (.25 hours). The estimated average time consumed in the process of the MVPD's subsequent disclosure and the MDU owner or alternative provider's election is 5 minutes (.083 hours). Estimated annual time consumed is 2,000 notifications×.333 hours=666 hours. 47 CFR 76.802 also states that, to inform subscribers of per-foot replacement costs, MVPDs may develop replacement cost schedules based on readily available information; if the MVPD chooses to develop such schedules, it must place them in a public file available for public inspection during regular business hours. We estimate that 50% of MVPDs will develop such cost schedules to place in their public files. Virtually all individual subscribers terminate service via telephone, and few subscribers are anticipated to review cost schedules on public file. The annual recordkeeping burden for these cost schedules is estimated to be 0.5 hours per MVPD. (20,000 MVPDs×50%×0.5 hours=5,000 hours). 47 CFR 76.804 Disposition of Home Run Wiring. We estimate the burden for notification and election requirements for building-by-building and unit-by-unit disposition of home run wiring as described below. Note that these requirements apply only when an MVPD owns the home run wiring in an MDU and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the entity that owns or controls the common areas of the MDU or have a legally enforceable right to maintain any particular home run wire dedicated to a particular unit on the premises against the MDU owner's wishes. We use the term ''MDU owner'' to include whatever entity owns or controls the common areas of an apartment building, condominium or cooperative. For building-by-building disposition of home run wiring, the MDU owner gives the incumbent service provider a minimum of 90 days' written notice that its access to the entire building will be terminated. The incumbent then has 30 days to elect what it will do with the home run wiring. Where parties negotiate a price for the wiring and are unable to agree on a price, the incumbent service provider must elect among abandonment, removal of the wiring, or arbitration for a price determination. Also, regarding cable home wiring, when the MDU owner notifies the incumbent service provider that its access to the building will be terminated, the incumbent provider must, within 30 days of the initial notice and in accordance with our home wiring rules, (1) offer to sell to the MDU owner any home wiring within the individual dwelling units which the incumbent provider owns and intends to remove, and (2) provide the MDU owner with the total per-foot replacement cost of such home wiring. The MDU owner must then notify the incumbent provider as to whether the MDU owner or an alternative provider intends to purchase the home wiring not later than 30 days before the incumbent's access to the building will be terminated. For unit-by-unit disposition of home run wiring, an MDU owner must provide at least 60 days' written notice to the incumbent MVPD that it intends to permit multiple

MVPDs to compete for the right to use the individual home run wires dedicated to each unit. The incumbent service provider then has 30 days to provide the MDU owner with a written election as to whether, for all of the incumbent's home run wires dedicated to individual subscribers who may later choose the alternative provider's service, it will remove the wiring, abandon the wiring, or sell the wiring to the MDU owner. In other words, the incumbent service provider will be required to make a single election for how it will handle the disposition of individual home run wires whenever a subscriber wishes to switch service providers; that election will then be implemented each time an individual subscriber switches service providers. Where parties negotiate a price for the wiring and are unable to agree on a price, the incumbent service provider must elect among abandonment, removal of the wiring, or arbitration for a price determination. The MDU owner also must provide reasonable advance notice to the incumbent provider that it will purchase, or that it will allow an alternative provider to purchase, the cable home wiring when a terminating individual subscriber declines. If the alternative provider is permitted to purchase the wiring, it will be required to make a similar election during the initial 30-day notice period for each subscriber who switches back from the alternative provider to the incumbent MVPD. According to the Statistical Abstracts of the United States, 1995 at 733 Table No. 1224, over 28 million people resided in MDUs with three or more units in 1993. We therefore estimate that there are currently 30 million MDU residents and that MDUs house an average of 50 residents, and so we estimate that there are approximately 600,000 MDUs in the United States. In many instances, incumbent service providers may no longer own the home run wiring or may continue to have a legally enforceable right to remain on the premises. Also, MDU owners may forego the notice and election processes for various other reasons, e.g., they have no interest in purchasing the home run or cable home wiring. We estimate that there will be approximately 12,500 notices and 12,500 elections made on an annual basis. The number of notices accounts for the occasions when the MDU owner simultaneously notifies the incumbent provider that: (1) It is invoking the home run wiring disposition procedures, and (2) whether the MDU owner or alternative provider intends to purchase the cable home wiring. It also accounts for those occasions when the MDU owner makes a separate notification regarding the purchase of cable home wiring. The number of elections accounts for instances when the incumbent elects to sell the wiring but the parties are unable to agree on a price, therefore necessitating a second election. We assume all notifications and elections (except when an individual subscriber is terminating service) will be in writing and take an average burden of 30 minutes (0.5 hours) to prepare. (25,000 notifications and elections×0.5 hours=12,500 hours).

Total Cost to Respondents: Total Annual Cost to Respondents: $37,510, estimated as follows: Under the annual operation and maintenance costs category, we estimate that stationery and postage costs for interference reports submitted to the Commission pursuant to § 76.613 to be $1 per report. (10 reports×$1=$10). We estimate stationery and postage costs for signal leakage filings to be $1 per filing. (500 filings×$1=$500). We estimate that 50% of the 20,000 MVPDs will annually develop cost schedules. We estimate recordkeeping expenses for these schedules to be $1 per MVPD. (20,000×50%×$1=$10,000). We estimate stationery and postage costs for the various disposition notifications and elections to be $1 per occurrence. (27,000 advance notices and notifications and elections×$1=$27,000). There are no estimated capital and start-up costs.

Needs and Uses: The various notification and election requirements in this collection (3060–0692) are set forth in order to promote competition and consumer choice by minimizing any potential disruption in service to a subscriber switching video providers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–2031 Filed 1–27–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Additional Item To Be Considered at Open Meeting Thursday, January 29, 1998

January 23, 1998.

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, January 29, 1998, at 1919 M Street, N.W., Washington, D.C. See meeting notice published on January 27, 1998.

Item No., Bureau and Subject

4—Office of Engineering and Technology—Title: Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service (MM Docket No. 87–268). Summary: The Commission will consider petitions for reconsideration filed in response to the Commission's Sixth Report and Order regarding allotment of channels for digital television.

The prompt and orderly conduct of the Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission January 23, 1998, Chairman Kennard and Commissioners Ness, Furchtgott-Roth, Powell and Tristani voting to consider this item.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800 or fax (202) 857–3805 and 857–3184. These copies are available in paper format and alternative media which includes, large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its__inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770; and from Conference Call USA (available only outside the Washington, D.C. metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–2275 Filed 1–26–98; 3:55 pm]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; 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 Florida, (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: January 14, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Citrus, Lake, Orange and Sumter Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2065 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; 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 Florida, (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Pasco County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2066 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; 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 Florida (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: January 14, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 14, 1998.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2067 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: January 6, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 6, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Florida, resulting from severe storms, high winds, tornadoes, and flooding beginning on December 25, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288 as amended, (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Paul Fay of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Hernando, Hillsborough, Osceola, and Polk Counties for Individual Assistance.

All counties within the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 98–2068 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1198–DR]

Maine; 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 Maine, (FEMA–1198–DR), dated January 13, 1998, and related determinations.

EFFECTIVE DATE: January 15, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maine, is hereby amended to include Individual Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1998:

The counties of Androscoggin, Cumberland, Franklin, Hancock, Kennebec, Knox, Lincoln, Penobscot, Piscataquis, Oxford, Sagadahoc, Somerset, Waldo, Washington, and York for Individual Assistance (already designated for Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2072 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1198–DR]

Maine; 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 Maine, (FEMA–1198–DR), dated January 13, 1998, and related determinations.

EFFECTIVE DATE: January 15, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maine, 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 13, 1998:

Aroostook County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2073 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1196–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1196–DR), dated January 10, 1998, and related determinations.

EFFECTIVE DATE: January 10, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 10, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from severe winter and ice storms, high winds, and flooding beginning on January 5, 1998, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288 as amended, (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Further, you are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program in the designated areas. Other forms of assistance may be added at a later date, as you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Barbara Russell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Clinton, Essex, Franklin, Jefferson, and St. Lawrence Counties for Individual Assistance and Categories A and B under the Public Assistance program.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: January 13, 1998.

James L. Witt,

Director.

[FR Doc. 98–2070 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1196–DR]

New York; 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 York, (FEMA–1196–DR), dated January 10, 1998, and related determinations.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include Categories C through G under the Public

Assistance program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 10, 1998:

Lewis County for Individual Assistance and Public Assistance.

Clinton, Essex, Franklin, Jefferson, and St. Lawrence Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2071 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1192–DR]

Commonwealth of the Northern Mariana Islands; 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 Commonwealth of the Northern Mariana Islands, (FEMA–1192–DR), dated December 8, 1997, and related determinations.

EFFECTIVE DATE: January 6, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of the Northern Mariana Islands, is hereby amended to include Hazard Mitigation in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 8, 1997:

All islands within the Commonwealth of the Northern Mariana Islands are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–2069 Filed 1–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011279–006.

Title: The Latin America Agreement.

Parties: The Members of the following: Central America Discussion Agreement; Southeastern Caribbean Discussion Agreement; Hispaniola Discussion Agreement; U.S. Jamaica Discussion Agreement; Venezuela American Maritime Association; Caribbean Shipowners' Association; Aruba Bonaire Curacao Liner Association; Inter-American Freight Conference; Venezuelan Discussion Agreement; and Puerto Rico/Caribbean Discussion Agreement.

Synopsis: The proposed modification changes the name of the Agreement from the ''Western Hemisphere Discussion Agreement'' to the ''Latin America Agreement'', as well as making membership changes to the list of members of the Central America Discussion Agreement and the Inter-American Freight Conference.

Agreement No.: 203–011452–010

Title: Trans-Pacific Policing Agreement

Parties: American President Lines, Ltd.; Cho Yang Line; China Ocean Shipping Company; DSR-Senator Joint Service; Evergreen Marine Corp.; Hanjin Shipping Co., Ltd.; Hapag-Lloyd Container Linie GmbH; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; A.P. Moller-Maersk Line; Mtsui O.S.K. Lines, Ltd.; Neptune Orient Lines, Ltd.; Nippon Yusen Kaisha Line; Orient Overseas Container Line, Inc.; P&O Nedlloyd Limited; P&O Nedlloyd Lijnen, B.V.; Sea-Land Service, Inc.; and Wilhelmsen Lines AS, Yang Ming Marine Transport Corp.

Synopsis: The proposed amendment would expand the scope of the Agreement's policing program to include rates, charges, terms, and condition established pursuant to Agreement No. 203–011325 (the Westbound Transpacific Stabilization Agreement) for wastepaper and metal scrap. It also deletes Transportation Maritima Mexicana S.A. de C.V. as a party to the Agreement.

Agreement No.: 232–011606.

Title: The COSCON/KL Slot Exchange Agreement.

Parties: COSCO Container Lines, Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed Agreement would permit the parties to charter space to one another and to agree upon the deployment and utilization of vessels in the trade between United States Pacific Coast ports and ports in Asia, and inland points in the U.S. and Asia served via such ports.

Dated: January 22, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–1978 Filed 1–27–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 1998.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor)

1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. First Capital Bancshares, Inc., Chillicothe, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank, Chillicothe, Ohio.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. First Union Corporation, Charlotte, North Carolina; to acquire 100 percent of the voting shares and thereby merge with CoreStates Financial Corp., Philadelphia, Pennsylvania, and thereby indirectly acquire CoreStates Bank, N.A., Philadelphia, Pennsylvania, and CoreStates Bank of Delaware, N.A., Wilmington, Delaware.

In connection with this application, Applicant also has applied to acquire Electronic Payment Services, Inc., Wilmington, Delaware, and thereby engage in providing data processing and transmission services to retail merchants using point-of-sale terminals and to banks who are members of its automatic teller machine (ATM) network. Electronic Payment Services, Inc., also provides electronic benefits transfer services, stored value card services, electronic data interchange services, and data processing for ATMs to dispense tickets, gift certificates, prepaid telephone cards and other documents, pursuant to § 225.28(b)(14) of the Board's Regulation Y; Congress Financial Corporation, New York, New York, and thereby engage in factoring services, asset based lending, and commercial finance, pursuant to § 225.28(b)(1) of the Board's Regulation Y; CoreStates Community Development Corporation, Inc., Philadelphia, Pennsylvania, and thereby engage in investments to promote community welfare and engage in acquiring, rehabilitating, and selling residential real estate to former homeless women, pursuant to § 225.28(b)(12) of the Board's Regulation Y; CoreStates Securities Corporation, Philadelphia, Pennsylvania, and thereby engage in securities brokerage activities, pursuant to §§ 225.28(b)(6) and (b)(7) of the Board's Regulation Y; and in underwriting and dealing in, to a limited extent, certain municipal revenue bonds, 1-4 family mortgage-related securities, consumer receivable-related securities, and commercial paper (See *Citicorp*, 73 Fed. Res. Bull. 473 (1987)); providing financial and investment advisory services, pursuant to § 225.28(b)(6) of the Board's Regulation Y; buying and selling all types of securities on order of customers as a riskless principal, pursuant to § 225.28(b)(7)(ii) of the Board's Regulation Y; acting as agent in the private placement of all types of securities, pursuant to § 225.28(b)(7)(iii) of the Board's Regulation Y; providing other transactional services, pursuant to § 225.28(b)(7)(v) of the Board's Regulation Y; and providing investing and trading services, pursuant to § 225.28(b)(8)(ii) of the Board's Regulation Y; McGlinn Capital Management, Inc., Reading, Pennsylvania, and thereby engage in investment advisory services, pursuant to § 225.28(b)(6) of the Board's Regulation Y; Meridian Asset Management, Inc., Valley Forge, Pennsylvania, and thereby engage in non-fiduciary custodial and agency services, and trust services, pursuant to §§ 225.28(b)(5) and (b)(6) of the Board's Regulation Y; Meridian Securities, Inc., Reading, Pennsylvania, and thereby engage in securities brokerage activities, pursuant to § 225.28(b)(7) of the Board's Regulation Y; Pennco Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting credit life, health, and accident insurance for loans made by affiliates, pursuant to § 225.28(b)(11) of the Board's Regulation Y; Meridian Life Insurance Company, Reading, Pennsylvania, and thereby engage in underwriting credit life, health, and accident insurance for loans made by affiliates, pursuant to § 225.28(b)(11) of the Board's Regulation Y; and Princeton Life Insurance Company, Lancaster, Pennsylvania, and thereby engage in underwriting credit life, health, and accident insurance for loans made by affiliates, pursuant to § 225.28(b)(11) of the Board's Regulation Y.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Ohnward Bancshares, Inc., Maquoketa, Iowa; to acquire 100 percent of the voting shares of Gateway State Bank, Clinton, Iowa.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Countryside Bancshares, Inc., Republic, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Countryside Bank (in organization), Republic, Missouri.

E. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Marshall Community Bancshares, Inc., Marshall, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Marshall, Marshall, Missouri.

F. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. The Community Group, Inc., Dallas, Texas, and The Delaware Community Group, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of United Community Group, N.A., Highland Village, Texas.

G. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Busby Holdings, Inc., Los Angeles, California; to become a bank holding company by acquiring 59.5 percent of the voting shares of Founders National Bank of Los Angeles, Los Angeles, California. Comments regarding this application must be received not later than February 20, 1998.

Board of Governors of the Federal Reserve System, January 23, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–2063 Filed 1–27–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be

received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Commerce Bancorp, Inc., Cherry Hill, New Jersey; to acquire A.H. Williams & Co., Inc., Philadelphia, Pennsylvania, and thereby engage in the following: underwriting and dealing in municipal revenue bonds, private ownership industrial development bonds issued for traditional government services, mortgage-backed securities, commercial paper, and consumer receivable-related securities. *See Citicorp*, 73 Fed. Res. Bull. 473 (1987); *Chemical New York Corporation*, 73 Fed. Res. Bull. 731 (1987); *Crestar Financial Corporation*, 83 Fed. Res. Bull. 512 (1997); activities that are usual in connection with making, acquiring, brokering, or servicing loans or other extensions of credit, pursuant to § 225.28(b)(2) of the Board's Regulation Y; leasing personal or real property or acting as agent, broker, or adviser in leasing such property, pursuant to § 225.28(b)(3) of the Board's Regulation Y; acting as investment or financial advisor, pursuant to § 225.28(b)(6) of the Board's Regulation Y; providing agency transactional services for customer investments, pursuant to § 225.28(b)(7) of the Board's Regulation Y; underwriting and dealing in bank-eligible securities, pursuant to § 225.28(b)(8)(i) of the Board's Regulation Y; engaging as principal in investment and trading activities, pursuant to § 225.28(b)(8)(ii) of the Board's Regulation Y; and providing management consulting and employee benefits counseling services, pursuant to § 225.28(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. One Valley Bancorp, Inc., Charleston, West Virginia; to acquire FFVA Financial Corporation, Lynchburg, Virginia, and thereby indirectly acquire its subsidiary, First Federal Savings Bank of Lynchburg, Lynchburg, Virginia, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 23, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–2064 Filed 1–27–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

National Committee on Vital and Health Statistics: Meetings

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Health Data Needs, Standards, and Security.

Times and Dates: 9:00 a.m.–5:00 p.m., February 9, 1998. 9:00 a.m.–5:00 p.m., February 10, 1998.

Place: Room 303A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: Under the Administrative Simplification provisions of Public Law 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Secretary of Health and Human Services is required to adopt standards for specified transactions to enable health information to be exchanged electronically. The law requires that, within 24 months of adoption, all health plans, health care clearinghouses, and health care providers who choose to conduct these transactions electronically must comply with these standards. The law also requires the Secretary to adopt a number of supporting standards including standards for code sets and classifications systems. The Secretary is required to consult with the National Committee on Vital and Health Statistics (NCVHS) in complying with these provisions. The NCVHS is the Department's federal advisory committee on health data, privacy and health information policy.

The NCVHS already has provided recommendations to HHS relating to most of the transaction and supporting standards, and proposed regulations adopting those standards are being prepared by HHS for public review and comment in the **Federal Register**. HIPAA allowed an additional twelve months for adoption of the standard for claims attachments. To assist in the development of the NCVHS recommendations to HHS relating to the claims attachment standards, the NCVHS Subcommittee on Health Data Needs, Standards, and Security has scheduled a public meeting on February 9–10, 1998. At the meeting, the Subcommittee will obtain the perspectives, concerns and recommendations of interested and affected parties relating to this standard. In addition, the Subcommittee will review and discuss its overall work plan for the year, including medical classification issues and activities relating to population based-data.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card may need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Bill Braithwaite, lead Subcommittee staff, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 260–0546, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://aspe.os.dhhs.gov/ncvhs/, where the agenda for the meeting will be posted when available.

Dated: January 21, 1998.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 98–2041 Filed 1–27–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Health Resources and Service Administration; Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Administrator of the Health Resources and Services Administration (HRSA), with authority to redelegate, all authorities vested in the Secretary of Health and Human Services under Title XXVI of the Public Health Service Act, Public Law 101–381, The Ryan White Comprehensive AIDS Resources Emergency Act of 1990, as amended by Public Law 104–146, as amended hereafter, pertaining to the HIV Health Care Services Program, as follows:

1. Part A (Title I of the CARE Act and Section 2601–07 of the PHS Act)—Emergency Relief for Areas with Substantial Need for Services;

2. Part B (Title II of the CARE Act and Sections 2611–21 of the PHS Act)—Care Grant Program to States and Territories;

3. Part C (Title III of the CARE Act and Sections 2651–54 of the PHS Act)—Early Intervention Services at community health clinics;

4. Part D (Title IV of the CARE Act and Section 2671 of the PHS Act)—Grants for Coordinated Services and Access to Research for Women, Infants, Children and Youth;

5. Part F.I., Section 2691 of the PHS Act—Special Projects of National Significance (SPNS);

6. Part F.II(a)., Section 2692(a) of the PHS Act—AIDS Education and Training Centers (AETC);

7. Part F.II.(b)., Section 2692(b) of the PHS Act—Dental Schools Reimbursement Program.

This delegation supersedes the delegation memorandum from the Assistant Secretary for Health to the HRSA Administrator, dated May 24, 1991.

This delegation is effective upon date of signature. In addition, I hereby affirm and ratify any actions taken by the HRSA Administrator or any subordinates which, in effect, involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: January 20, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–2040 Filed 1–27–98; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–5:15 p.m., February 11, 1998; 8:30 a.m.–1:15 p.m., February 12, 1998.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters To Be Discussed: Agenda items will include updates from the National Center for Infectious Diseases; the National Immunization Program; the Vaccine Injury Compensation Program; the National Vaccine Program; update on influenza A(H5N1): epidemiologic and virologic surveillance and present status of vaccine development; update on influenza surveillance—U.S. and worldwide; influenza vaccination and Guillain Barre syndrome: update and proposed changes to ACIP recommendations; proposed changes to the 1998–1999 ACIP recommendations for prevention and control of influenza; immunization of bone marrow transplant recipients recommendations on the use of Rotashield® (rotavirus vaccine) as part of the routine childhood immunization schedule; report of work group on computerization of ACIP recommendations; ACIP combination vaccines recommendation; comprehensive resolutions for the Vaccines for Children (VFC) Program; vaccine identification standards initiative; and alopecia associated with hepatitis B vaccination. Other matters of relevance among the committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE, M/S D–50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: January 21, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1998 Filed 1–27–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a tentative schedule of forthcoming meetings of its public advisory committees for 1998. At the request of the Commissioner of Food and Drugs (the Commissioner), the Institute of Medicine (the IOM) conducted a study of the use of FDA's advisory committees. The IOM recommended that the agency publish an annual tentative schedule of its meetings in the **Federal Register**. In response to that recommendation, FDA is publishing its annual tentative schedule of meetings for 1998.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4820.

SUPPLEMENTARY INFORMATION: The IOM, at the request of the Commissioner, undertook a study of the use of FDA's advisory committees. In its final report, the IOM recommended that FDA adopt a policy of publishing an advance yearly schedule of its upcoming public advisory committee meetings in the **Federal Register**. FDA has implemented this recommendation. A tentative schedule of forthcoming meetings will be published annually in the **Federal Register**. The annual publication of tentatively scheduled advisory committee meetings will provide both advisory committee members and the public with the opportunity, in advance, to schedule attendance at FDA's upcoming advisory committee meetings. The schedule is tentative and amendments to this notice will not be published in the **Federal Register**. FDA will publish a **Federal Register** notice at least 15 days in advance of each upcoming advisory committee meeting, announcing the meeting (21 CFR 14.20).

The following list announces FDA's tentatively scheduled advisory committee meetings for 1998:

Committee Name	Dates of Meetings	Information-Line Code
OFFICE OF THE COMMISSIONER		
Science Board to the Food and Drug Administration	May 19 September 15	12603
CENTER FOR BIOLOGICS EVALUATION AND RESEARCH		
Allergenic Products Advisory Committee	March 23–24 September 14–15	12388
Biological Response Modifiers Advisory Committee	March 23–24	12389

Committee Name	Dates of Meetings	Information-Line Code
	July 30–31	
	November 12–13	
Blood Products Advisory Committee	March 12–13	19516
	June 18–19	
	September 17–18	
	December 10–11	
Transmissible Spongiform Encephalopathies Advisory Committee	April 15–16	12392
	July 9–10	
	October 22–23	
Vaccines and Related Biological Products Advisory Committee	January 30	12391
	March 23–24	
	May 26–27	
	July 20–21	
	September 1–2	
	November 19–20	
CENTER FOR DRUG EVALUATION AND RESEARCH		
Advisory Committee for Pharmaceutical Science	April 7–8	12539
	June 23–24	
	October 22–23	
Advisory Committee for Reproductive Health Drugs	March 19–20	12537
	June 11–12	
	September 17–18	
Anesthetic and Life Support Drugs Advisory Committee	February 5–6	12529
	June 1–2	
	September 10–11	
Anti-Infective Drugs Advisory Committee	February 19–20	12530
	April 1–3	
	July 15–17	
	November 4–6	
Antiviral Drugs Advisory Committee	January 14	12531
	May 4–6	
	July 13–15	
	September 9–11	
Arthritis Advisory Committee	February 20	12532
	March 24–25	
	June 2–3	
	September 15–16	
	October 30	
	December 1–2	
Cardiovascular and Renal Drugs Advisory Committee	January 27–28	12533
	April 9	
	July 9–10	
	October 22–23	
Dermatologic and Ophthalmic Drugs Advisory Committee	March 19–20	12534
	June 4–5	
	July 23–24	
	August 20–21	
	September 10–11	
	October 1–2	
	November 5–6	
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Drug Abuse Advisory Committee	February 19–20	12535
	June 25–26	
	October 22–23	
Endocrinologic and Metabolic Drugs Advisory Committee	March 12–13	12536
	April 9–10	
	May 14–15	
	July 30–31	
	September 17–18	
	October 15–16	
	December 10–11	
Gastrointestinal Drugs Advisory Committee	May 28–29	12538
Medical Imaging Drugs Advisory Committee	February 9	12540
	June 25–26	
	October 15–16	
Nonprescription Drugs Advisory Committee	March 11–13	12541

Committee Name	Dates of Meetings	Information-Line Code
	May 20–22 May 27–28 July 27–29 September 9–11 October 7–8 October 29–30 December 2–3 December 9–11	
Oncologic Drugs Advisory Committee	March 19–20 June 1–2	12542
Peripheral and Central Nervous System Drugs Advisory Committee	April 16–17 September 17–18	12543
Psychopharmacologic Drugs Advisory Committee	March 30–31	12544
Pulmonary-Allergy Drugs Advisory Committee	April 13–14 September 18	12545
CENTER FOR FOOD SAFETY AND APPLIED NUTRITION		
Food Advisory Committee	February 11–13 April 8–10 June 17–19 August 19–21 November 4–6	10564
CENTER FOR DEVICES AND RADIOLOGICAL HEALTH		
Device Good Manufacturing Practice Advisory Committee	May 2	12398
Medical Devices Advisory Committee		
Anesthesiology and Respiratory Therapy Devices Panel	May 22 August 28 November 6	12624
Circulatory System Devices Panel	March 16 May 7–8 August 20–21 October 26–27	12625
Clinical Chemistry and Clinical Toxicology Devices Panel	March 5–6 June 1–2 September 14 December 7	12514
Dental Products Panel	January 12–13 March 10–11 May 12–14 August 4–6 November 3–5	12518
Ear, Nose, and Throat Devices Panel	April 29 July 8 September 30	12522
Gastroenterology and Urology Devices Panel	February 12–13 April 30 and May 1 July 30–31 October 29–30	12523
General and Plastic Surgery Devices Panel	January 29–30 April 22–23 July 27–28 September 24–25 November 16–17	12519
General Hospital and Personal Use Devices Panel	March 2–3 June 8–9 September 14–15 November 16	12520
Hematology and Pathology Devices Panel	January 28 April 29–30 September 17–18 December 10–11	12515
Immunology Devices Panel	February 2 April 10 July 17 October 16	12516
Microbiology Devices Panel	February 11–13 April 16–17 June 4–5 August 13–14 October 8–9	12517
Neurological Devices Panel	March 12–13	12513

Committee Name	Dates of Meetings	Information-Line Code
Obstetrics and Gynecology Devices Panel	June 11–12 September 10–11 December 7–8 January 27–28 April 6–7 July 20–21 October 19–20	12524
Ophthalmic Devices Panel	February 12–13 April 23–24 July 23–24 October 22–23	12396
Orthopaedic and Rehabilitation Devices Panel	January 12–13 April 27–28 July 9–10 October 8–9	12521
Radiological Devices Panel	February 23 May 11 August 17 November 16	12525
National Mammography Quality Assurance Advisory Committee	May 13	12397
Technical Electronic Product Radiation Safety Standards Committee	September 22	12399
CENTER FOR VETERINARY MEDICINE		
Veterinary Medicine Advisory Committee	No meetings planned	12546
NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH		
Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants	April 10–11	12560
Science Board to the National Center for Toxicological Research	March 24–25	12559

Dated: January 22, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–2025 Filed 1–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0021]

Draft Guidance for Industry; Container and Closure Integrity Testing in Lieu of Sterility Testing as a Component of the Stability Protocol for Sterile Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Guidance for Industry: Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products.'' The draft guidance is intended to provide recommendations and offer alternative methods for sterility testing to confirm the integrity of container and closure systems for sterile biological products, human and veterinary drugs, and medical devices. The draft guidance applies only to the replacement of the sterility test with an appropriate container and closure integrity test in the stability protocol, and it is not offered as a replacement for sterility testing for product release.

DATES: Written comments may be provided at any time, however, to ensure comments are considered for the next revision they should be submitted by March 30, 1998.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written requests for single copies of the draft guidance entitled ''Guidance for Industry: Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the SUPPLEMENTARY INFORMATION section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Guidance for Industry: Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products.'' The draft guidance provides general information on procedures and practices that should be considered when a manufacturer selects alternative methods to confirm sterility during stability studies of sterile biological products, human and veterinary drugs, and medical devices.

All sterile products are required to have adequate container and closure integrity and to remain free from contamination throughout the product's entire dating period. As a consequence

of the limitations of sterility testing, FDA has determined that alternative methods are available that may more reliably confirm the integrity of the container and closure system in the final form throughout the entire dating period.

The draft guidance was prepared jointly by the following Centers: Center for Biologics Evaluation and Research (CBER), Center for Drug Evaluation and Research (CDER), Center for Veterinary Medicine (CVM), and Center for Devices and Radiological Health (CDRH). At the request of CBER's Stability and Formulation Committee, representatives from the Centers met on May 19, 1994, to discuss sterility testing as a component of the stability protocol. The ability of containers/packaging to maintain sterility should be proven for all sterile products.

As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements. Alternative approaches may be warranted in specific situations, and certain aspects may not be applicable to all situations. If a manufacturer believes that the procedure described in the draft guidance is inapplicable to a particular method and other procedures are appropriate for FDA's consideration, the manufacturer may wish to discuss the matter further with the agency to prevent expenditure of money and effort on activities that later may be determined to be unacceptable by FDA. FDA will continue to review alternative methods on a case-by-case basis.

The draft guidance represents the agency's current thinking on container and closure integrity testing during stability monitoring for sterile products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. The draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time.

II. Request for Comments

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests for copies are to be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

In order to receive the ''Guidance for Industry: Container and Closure Integrity Testing *in Lieu* of Sterility Testing as a Component of the Stability Protocol for Sterile Products'' via your fax machine, call the FAX Information System at 1–888–CBER–FAX or 301–827–3844.

Persons with access to the Internet may obtain the draft guidance document by using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''. Received comments will be considered in determining whether further revision of the draft guidance document is warranted.

Dated: January 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–2021 Filed 1–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *Fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Attenuated Strains Mycobacterium Tuberculosis

CE Barry, Y. Yuan (NIAID).

Serial No.: 60/025,199 filed 10 July 97.

Licensing Contact: Carol Salata, 301/496–7735 ext 232.

This invention provides for novel attenuated strains of *Mycobacterium tuberculosis* and *M. bovis.* Attenuation is achieved by down-regulating the expression of the α-crystallin heat shock protein gene (''acr gene''). This gene is essential for virulence of the organism. Since this strain is isogenic with virulent *M. tuberculosis* but for this deletion, the full complement of antigens remains present and the organism is viable in vitro. The invention provides for vaccines and methods of vaccinating mammals for protection against *Mycobacterium sp.* that cause tuberculosis.

Method of Promoting Tumor Necrosis Using MIG

G Tosato (FDA), J Farber (NIAID), C Sgardari (FDA).

Serial No.: 08/850,914 filed 2 May 97.

Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284.

Monokine induced by IFN–γ (Mig), which is structurally related to interferon-inducible protein 10 (IP–10), has been shown to exhibit antitumor activity. Mig is a member of the α chemokine family. Members of this chemokine family, PF4, PBP, CTAP–III βTG, NAP–2, IL–8 GROα, GROβ, GROγ, and IP–10, have been shown to act as an angiogenic or angiostatic factor. This invention relates to the use of Mig to promote the death of tumor tissue. It also relates to a method of inhibiting angiogenesis at a tumor site using Mig.

This research has been published in Blood 1997 Apr 15;89(8):2635–43 and J Leukoc Biol 1997 Mar;61(3):246–57.

A related case is also available for licensing: Serial No. 08/455,079 filed 31 May 95 entitled ''Interferon-Inducible 10 (IP–10) is a Potent Inhibitor of Angiogenesis''; inventors are G Tosato, AL Angiolillo, and C Sgardari.

Formation of Human Bone In Vivo

PG Robey (NIDR), P Bianco (Universita dell Aquilla), Sa Kuznetsov (NIDR), PH Krebsback (NIDR), DW Rowe (University of Connecticut.

Serial No.: 08/798, 715 filed 12 Feb. 97.

Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284.

This invention provides a model for studying human bone metabolism *in*

vivo. The model system can be used to screen compounds which inhibit or stimulate bone formation. A protocol using marrow stromal fibroblasts is also presented. Use of the protocol results in the formation of self-maintained human bone which supports hematopoiesis. The marrow stromal fibroblasts combined with the described delivery vehicles can be implanted into humans to augment bone implants or to repair bone defects.

This research has been published in J Bone Miner Res 1997 Sep;12(9):1335–47 and Transplantation 1997 Apr 27;63(8):1059–69.

Synthesis and Purification of Hepatitis C Virus Like Particles In Vitro

TJ Liang and TF Baumert (NIDDK).
Serial No.: 60/030,238 filed 8 Nov 96; PCT/US97/05096 filed 25 Mar. 97.
Licensing Contact: Carol Salata, 301/496–7735 ext 232.

Hepatitis C virus (HCV) is a major causative agent of posttransfusion and community-acquired hepatitis world-wide. Analysis of the structural features of HCV has been hampered by the inability to propagate the virus efficiently in cultural cells and the lack of a convenient animal model. This invention discloses the production and purification of HCV-like particles in eukaryotic cells. Infection of insect cells with a recombinant baculovirus containing the cDNA for the HCV structural proteins resulted in the formation of HCV-like particles in cytoplasmic cisternae of the insect cells. Sucrose gradient purification HCV-like particles exhibited similar biophysical properties as putative HCV virions. HCV-like particles, purified in large quantities, may be useful in HCV vaccine development or in diagnostic kits.

An Enzyme-Linked Immunosorbent Assay (ELISA) to Detect Antibodies to a Nonstructural Protein of Hepatitis A Virus (HAV)

RH Purcell, T Schultheiss, D Stewart, S Emerson (NIAID).
Serial No.: 60/013, 333 filed 13 Mar. 96; PCT/US97/03428 filed 13 Mar. 97.
Licensing Contact: George Keller, 301/496–7735 ext 246.

The current invention embodies an assay which can differentiate between an individual who has been vaccinated against Hepatitis A Virus (HAV), and one who has actually been infected with the virus. HAV infection results in the production of antibodies against both structural and nonstructural proteins of the virus. Inactivated HAV vaccines, which are commonly used for immunization against HAV, cause the production of antibodies against the structural proteins. Assays currently in use for determining exposure to HAV measure only antibodies to structural proteins, and therefore are incapable of differentiating between individuals who have been infected with HAV and those who have merely been immunized with the inactivated virus.

The assay embodied in the current invention is capable of detecting antibodies to the 3C proteinase, which is a nonstructural protein of HAV. This assay, which utilizes an ELISA for the detection of such antibodies, should represent a significant improvement over assays which are currently available.

Restriction Display (RD–PCR) of Differentially Expressed mRNAs

JN Weinstein, J. Buolamwini (NCI).
Serial No.: 60/011, 379 filed 09 Feb 96; PCT/US97/02009 filed 7 Feb. 97.
Licensing Contact: J. Peter Kim, 301/496–7056 ext 264.

This invention provides a kit and methods for detecting gene expression in cells by reverse transcribing mRNA molecules into cDNA, and selectively amplifying a subset of the cDNA by a polymerase chain reaction (PCR) to present a two-dimensional display of the fragments or for cloning into a vector using restriction enzyme recognition sites added during the PCR. In one aspect of this invention, only cDNA corresponding to the 3′ end of the mRNA is amplified and displayed or cloned. In another aspect of the invention, cDNA corresponding to the entire mRNA molecule is amplified for display or cloning. The method and kit may be useful in characterizing cells based on their mRNA content, representing expressed genes, and discovering therapeutics that alter cellular gene expression by characterizing cells of different types under a variety of physiological conditions. In addition to drug discovery, this approach may be used whenever expression of mRNA is to be assessed, for example, in studies of malignant transformation, carcinogenesis, immune activation, and developmental biology.

Selective Elimination of T-Cells that Recognize Specific Preselected Targets

A Rosenberg (FDA).
Serial No.: 60/002, 964 filed 30 Aug. 95; PCT filed 30 /Aug. 96.
Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284

The invention relates to methods and compositions for the elimination of T cells that recognize specific preselected targets which can be used to threat autoimmune diseases and graft rejection.

The invention provides a method for selectively inhibiting or killing T cells that recognize a specific preselected target molecule and also for modified killer cells that bear a signal transduction molecule to which is attached the preselected target molecule. Recognition of the preselected molecule by a T cell activates the killer cell which then kills or inhibits the T cell. Where the preselected molecule is an extracellular domain of an MHC from a xenograft or an allograft, treatment of the graft recipient with the modified killer T cells delays or inhibits graft rejection. Similarly, where the preselected molecule is an MHC that binds the antigenic determinant of the autoimmune disease, treatment of the organism with the modified T cells mitigates the autoimmune response directed against the antigenic determinant.

This research was published in Transpl Immunol 1993; 1(2):93–9.

Dated: January 16, 1998.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 98–1967 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Initial Review Group (IRG) meeting:

Name of IRG: Minority Biomedical Research Support.
Date: March 10–12, 1998.
Time: March 10—8 p.m.–11 p.m.; March 11—8:30 a.m–6 p.m.; March 12—8:30 a.m.–adjournment.
Place: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Contact Person: Dr. Michael A. Sesma, Scientific Review Administrators, NIGMS, Natcher Building—Room 1AS–19, Bethesda, Maryland 20892, Telephone: 301–594–2048.
Purpose/Agenda: To evaluate and review research training grant applications.

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. The

discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. (93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research 93.880, Minority Access Research Careers (MARC); and 93.375, Minority Biomedical Research Support (MBRS)], National Institutes of Health)

Dated: January 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1961 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting.

Name of SEP: SBIR Fast Track Initiative (teleconference).

Date: February 3, 1998.

Time: 9:00 a.m.-adjournment.

Place: Natcher Building, 45 Center Drive, Room 5AS25U, Bethesda, Maryland 20892.

Contact Person: Tommy L. Broadwater, Ph.D., Scientific Review Administrator, Natcher Building, 45 Center Drive, Rm 5AS25U, Bethesda, Maryland 20892, Telephone: 301–594–4953.

Purpose/Agenda: To evaluate and review contract application.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This meeting is being published less than 15 days prior to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Disease Research], National Institutes of Health, HHS)

Dated: January 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1962 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: ZDK1 GRB4–C2B.

Date: February 13, 1998.

Time: 3:00 p.m.

Place: Room 6as–37A, Natcher Building, NIH (Telephone Conference Call).

Contact: William Elzinga, Ph.D., Review Branch, DEA, NIDDK, Natcher Building, Room 6as–37A, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8895.

Purpose/Agenda: To review and evaluate contract proposals.

This 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.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: January 20, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1964 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel, Calcium Regulation in Brain Aging and Alzheimer's Disease.

Date of Meeting: February 12, 1998.

Time of Meeting: 1 p.m. to adjournment.

Place of Meeting: Wyndham Garden Hotel, 1938 Stanton Way, Lexington, Kentucky 40511.

Purpose/Agenda: To review one grant application.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, The Einstein Aging Study (Teleconference).

Date of Meeting: February 24, 1998.

Time of Meeting: 1:30 p.m. to adjournment.

Place of Meeting: Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review a program project.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Molecular Mechanisms of T Cell Aging in Mice.

Date of Meeting: February 27, 1998.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: University of Michigan, Ann Arbor, Michigan.

Purpose/Agenda: To review a program project grant.

Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Initial Review Group, Neurosciences of Aging Review Committee.

Date of Meeting: March 16–18, 1998.

Times of Meeting: March 16—7 p.m. to recess, March 17—8 a.m. to 6 p.m., March 18—8 a.m. to adjournment.

Place of Meeting: Hyatt Regency Hotel, 7400 Block of Wisconsin Avenue, Bethesda, Maryland 20814.

Purpose/Agenda: To review grant applications.

Contact Person: Dr. Maria Mannarino, Dr. Louise Hsu, Scientific Review Administrators, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

These meetings 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.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: January 20, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1965 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Primate Immunology Laboratory (Telephone Conference Call).
Date: February 12, 1998.
Time: 1:00 p.m. to Adjournment.
Place: Teleconference, 6003 Executive Boulevard, Solar Building, Room 4C16, Bethesda, MD 20892, (301) 496–2550.
Contact Person: Dr. Madelon Halula, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C16, Bethesda, MD 20892, (301) 496–2550.
Purpose/Agenda: To evaluate contract proposals.

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.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 20, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1966 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Clinical Sciences.
Date: February 5, 1998.
Time: 1 p.m.
Place: Bethesda Ramada Hotel, Bethesda, MD.
Contact Person: Dr. Anshumali Chaudhari, Scientific Review Administrator, 6701 Rockledge Drive, Room 4128, Bethesda, Maryland 20892, (301) 435–1210.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.
Date: March 23, 1998.
Time: 8:30 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Michael Micklin, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

Name of SEP: Chemistry and Related Sciences.
Date: April 5–7, 1998.
Time: 8 a.m.
Place: Inn at the Collanade, Baltimore, MD.
Contact Person: Dr. Jean D. Sipe, Scientific Review Administrator, 6701 Rockledge Drive, Room 5152, Bethesda, Maryland 20892, (301) 435–1743.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: March 2, 1998.
Time: 8 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Biological and Physiological Sciences.
Date: March 9–10, 1998.
Time: 8:30 a.m.
Place: Holiday Inn-Georgetown, Washington, DC.
Contact Person: Dr. Syed Quadri, Scientific Review Administrator, 6701 Rockledge Drive, Room 4132, Bethesda, Maryland 20892, (301) 435–1211.

Name of SEP: Multidisciplinary Sciences.
Date: March 16–17, 1998.
Time: 8 a.m.
Place: Woodfin Suites, Rockville, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

The meetings 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.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1963 Filed 1–27–98; 8:45 am]

BILLING CODE 4140–01–M

INTER-AMERICAN FOUNDATION

Sunshine Act Meeting

TIME AND DATE: 11:30 a.m.–3:30 p.m., February 9, 1998.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the October 29, 1997, Meeting of the Board of Directors.
2. Update on the Grassroots Development Framework.
3. Report on Congressional Affairs.
4. Report on Program Office.
5. Report on External Affairs.
6. Report on Learning & Dissemination.
7. Report by the Board Audit Committee.

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: January 26, 1998.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 98–2278 Filed 1–26–98; 3:48 pm]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt.

The following applicant has applied for a permit to conduct certain activities with an endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–838253

Applicant: New York State Department of Environmental Conservation, Albany, New York.

The applicant requests authorization to take (harm and/or harass during management of habitat and monitoring of species) the Karner blue butterfly (*Lycaeides melissa samuelis*) throughout Albany, Schenectady, Saratoga, Warren,

Erie, and Oneida Counties of New York for the purpose of enhancement and survival of the species.

Written data or comments should be submitted to the Regional Permits Coordinator, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035 and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035, Attention: Diane Lynch, Regional Permits Coordinator. *Telephone:* (413) 253–8628; *FAX:* (413) 253–8482.

Dated: January 22, 1998.

Ronald E. Lambertson,

Regional Director, Region 5.

[FR Doc. 98–2000 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; F–14943–B]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Tanacross Incorporated for 10.69 acres. The lands involved are in the vicinity of Tok, Alaska.

Copper River Meridian, Alaska

T. 18 N., R. 13 E.,
Sec. 18, lots 1 and 2 of Block 5 embraced in the North Addition of Tok Alaska Townsite subdivision.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Fairbanks Daily News-Miner*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until February 27, 1998 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Patricia K. Underwood,

Land Law Examiner, ANCSA Team Branch of 962 Adjudication.

[FR Doc. 98–1997 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1310–00–NPRA]

Northeast National Petroleum Reserve-Alaska Draft Integrated Activity Plan/ Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management announces a 30-day extension of the public comment period for the Northeast National Petroleum Reserve-Alaska Draft Integrated Activity Plan/Environmental Impact Statement (IAP/EIS).

DATE: Written comment must be submitted or postmarked no later than March 12, 1998.

ADDRESSES: Comments on the document should be addressed to: NPR-A Planning Team, Bureau of Land Management, Alaska State Office (930), 222 West 7th Avenue, Anchorage, Alaska 99513–7599. Comments can also be sent to the NPR–A home page (http://aurora.ak.blm.gov/npra/).

FOR FURTHER INFORMATION CONTACT: Gene Terland (907–271–3344; gterland@ak.blm.gov) or Jim Ducker (907–271–3369; jducker@ak.blm.gov). They can be reached by mail at the Bureau of Land Management (930), Alaska Sate Office, 222 West 7th Avenue, Anchorage, Alaska 99513–7599.

SUPPLEMENTAL INFORMATION: The Bureau of Land Management published a notice of availability for the IAP/EIS on December 12, 1997 (62 FR 65440). That notice indicates that the public comment period for the document ends February 10, 1998. The Bureau of Land Management has received requests from the public that the comment period be extended. This extension to March 12, 1998, responds to those requests.

Date: January 22, 1998.

Sally Wisely,

Associate State Director.

[FR Doc. 98–2002 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–07–1210–00]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session on Friday, February 20 from 1 p.m. to 5 p.m. and on Saturday, February 21 from 8 a.m. to 12 noon. The meeting will be held in the Regency conference room at the Riverside Holiday Inn, located at 3400 Market Street, Riverside, California.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Carole Levitzky at (909) 697–5217 or Doran Sanchez at (909) 697–5220, BLM California Desert District Public Affairs.

Dated: January 22, 1998.

Tim Salt,

Acting District Manager.

[FR Doc. 98–1999 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from the Island of Oahu, HI in the Possession of the Bishop Museum, Honolulu, HI

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (b)(2), of the completion of an inventory of human

remains and associated funerary objects from the Island of Oahu, HI in the possession of the Bishop Museum, Honolulu, HI.

A detailed assessment of the human remains was made by Bishop Museum professional staff in consultation with representatives of Adminstrator of the Island Burial Councils, Alu Like, Hawaiian Civic Club of Honolulu, Daughters and Sons of Hawaiian Warriors, Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, Kamehameha Schools/Bishop Estate, Nahoa 'Olelo O Kamehameha Society, the O'ahu Burial Council, the Office of Hawaiian Affairs, and Royal Order of Kamehameha I.

In 1901, human remains representing one individual recovered from Palama, Oahu was donated to the Bishop Museum by a student at the Kamehameha Schools. No known individual was identified. No associated funerary objects are present.

In 1913, human remains representing two individuals from Waikiki, Oahu were donated to the Bishop Museum by Reverend W.D. Westervelt. No known individuals were identified. No associated funerary objects are present.

In 1914, human remains representing one individual from an unknown site on Oahu were collected by Felix von Luschan and John F.G. Stokes and donated to the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1914, human remains representing two individuals recovered from Palama, Oahu by Charles N. Forbes and assistants and were donated to the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1914, human remains representing one individual from Pawaa, Oahu were donated to the Bishop Museum by Charles H. Rose. No known individual was identified. No associated funerary objects are present.

In 1916, human remains representing two individuals from the Kamehameha School grounds, Oahu were donated to the Bishop Museum by Ralph J. Borden. No known individuals were identified. No associated funerary objects are present.

In 1916, human remains representing one individual from Waikiki, Oahu were donated to the Bishop Museum by the City and County Medical Examiner. No known individual was identified. No associated funerary objects are present.

In 1916, human remains representing one individual from Manoa, Oahu were donated to the Bishop Museum by Fred P. Pierce. No known individual was identified. No associated funerary objects are present.

In 1917, human remains representing one individual from Honolulu, Oahu were donated to the Bishop Museum by Gerrit P. Wilder. No known individual was identified. No associated funerary objects are present.

In 1920, human remains representing one individual from Punchbowl, Oahu were donated to the Bishop Museum by Malcolm Perez. No known individual was identified. No associated funerary objects are present.

In 1922, human remains representing two individuals from Honolulu, Oahu were donated to the Bishop Museum by Charles A. McWayne. No known individuals were identified. No associated funerary objects are present.

In 1922, human remains representing two individuals from Manoa, Oahu were donated to the Bishop Museum by Mrs. E.A. Fennel. No known individuals were identified. No associated funerary objects are present.

In 1923, human remains representing one individual from the Ainahau district, Waikiki, Oahu were donated to the Bishop Museum by the Hawaiian Dredging Company. No known individual was identified. No associated funerary objects are present.

In 1923, human remains representing five individuals from Helumoa, Waikiki, Oahu were collected by Kenneth P. Emory. Museum information indicates they were victims of the 1853 smallpox epidemic. No known individuals were identified. No associated funerary objects are present.

In 1923, human remains representing 36 individuals from a cave in Nuuanu Valley, Oahu were collected by Kenneth P. Emory. No known individuals were identified. The sixteen associated funerary objects include a mirror, combs, and clothing.

In 1924, human remains representing eight individuals from Kahuku, Oahu were donated to the Bishop Museum by Kenneth P. Emory and R.T. Aitken. No known individuals were identified. No associated funerary objects are present.

In 1924, human remains representing 33 individuals from Kawailoa, Oahu were donated to the Bishop Museum by Kenneth P. Emory and Ronald von Holt. Museum information indicates these remains were found on a Hawaiian Pineapple Company road. No known individuals were identified. The nine associated funerary objects include buttons and earrings.

In 1924, human remains representing 36 individuals from Kawailoa, Oahu were donated to the Bishop Museum by Kenneth P. Emory and Ronald von Holt. No known individuals were identified. The two associated funerary objects are parts of a canoe coffin.

In 1924, human remains representing two individuals from Manoa, Oahu were donated to the Bishop Museum by Mrs. E.A. Fennel. No known individuals were identified. No associated funerary objects are present.

In 1924, human remains representing one individual from Nuuanu, Oahu were donated to the Bishop Museum by Hans G. Hornbostel. No known individual was identified. The one associated funerary objects is a shell.

In 1925, human remains representing one individual from the beach at Waianae, Oahu were donated to the Bishop Museum by T.J. Simpson. No known individual was identified. No associated funerary objects are present.

In 1925, human remains representing three individuals from Moiliili, Oahu were donated to the Bishop Museum by John F.G. Stokes and H.S. Palmer. No known individuals were identified. The one associated funerary object is a basalt flake.

In 1925, human remains representing thirteen individuals from Moiliili, Oahu were donated to the Bishop Museum by E.S.C. Handy. No known individuals were identified. The five associated funerary objects include small mammal bones.

In 1926, human remains representing one individual from Waikiki, Oahu were donated to the Bishop Museum by Joseph R. Carriera. Museum information indicates these remains were found during house construction. No known individual was identified. No associated funerary objects are present.

In 1926, human remains representing six individuals from Makiki, Oahu were donated to the Bishop Museum by Charles A. McWayne. No known individuals were identified. No associated funerary objects are present.

In 1926, human remains representing 16 individuals from Bishop Estate land in Kalihi, Oahu were donated to the Bishop Museum by Kilmer O. Moe and John F.G. Stokes. No known individuals were identified. The six associated funerary objects include basalt, cloth fragments, a mat fragment, and a wood fragment.

In 1926, human remains representing 20 individuals from a cave at Maunalua, Oahu were donated to the Bishop Museum by Kilmer O. Moe. No known individuals were identified. No associated funerary objects are present.

In 1926, human remains representing 28 individuals from Maunalua, Oahu were donated to the Bishop Museum by Kilmer O. Moe. No known individuals were identified. No associated funerary objects are present.

In 1926, human remains representing two individuals from Kailua, Oahu were donated to the Bishop Museum by Kenneth P. Emory. No known individuals were identified. No associated funerary objects are present.

In 1927, human remains representing one individual from Waikiki, Oahu were collected by C.C. Hartwell and acquired by the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1927, human remains representing one individual from Lanikai, Oahu were donated to the Bishop Museum by Medford R. Kellum. Museum documentation indicates the remains were in a bundle at a depth of 5–1/2 feet. No known individual was identified. No associated funerary objects are present.

In 1927, human remains representing 22 individuals from Waialae Golf Course grounds, Oahu were donated to the Bishop Museum by the Bishop Estate. No known individuals were identified. No associated funerary objects are present.

In 1928, human remains representing three individuals from Nuuanu, Oahu were donated by Mrs. George Sherman. No known individual was identified. The one associated funerary object is a stick.

In 1928, human remains representing one individual from Hahaione Valley, Maunalua, Oahu were collected by John McCombs and acquired by the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1928, human remains representing one individual from Lanikai, Oahu were collected by Kenneth Emory and acquired by the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1929, human remains representing four individuals from Honolulu, Oahu were donated to the Bishop Museum by Chester R. Clark. No known individuals were identified. The one associated funerary object is a canine skull.

In 1929, human remains representing one individual from Waialae Iki, Oahu were donated to the Bishop Museum by John McCombs. No known individual was identified. No associated funerary objects are present.

In 1930, human remains representing three individuals from Kamoku Gulch, Waimea, Oahu were collected by J. Gilbert McAllister and donated to the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1930, human remains representing three individuals from a shallow shelter in the Kamilonui Valley, Oahu were collected by J. Gilbert McAllister and acquired by the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1931, human remains representing one individual from a cave at Black Point, Oahu were donated to the Bishop Museum by Jens M. Ostergaard. No known individual was identified. No associated funerary objects are present.

In 1931, human remains representing two individuals from Manoa, Oahu were donated to the Bishop Museum by Mr. and Mrs. George C. Cantlay. No known individuals were identified. No associated funerary objects are present.

In 1931, human remains representing one individual from Kahala, Oahu were donated to the Bishop Museum by John McCombs on behalf of Bishop Estate. Museum documentation indicates these remains were found during construction of a water pipe trench. No known individual was identified. No associated funerary objects are present.

In 1932, human remains representing one individual from Honolulu, Oahu were donated to the Bishop Museum by the Hawaiian Sugar Planters Association Experiment Station. No known individual was identified. No associated funerary objects are present.

In 1932, human remains representing one individual from Makiki, Oahu were acquired by the Bishop Museum. Museum documentation indicates these remains were found during house construction and collected by Edwin H. Bryan and Kenneth P. Emory. No known individual was identified. No associated funerary objects are present.

In 1933, human remains representing three individuals from stone pits at Ewa, Oahu were collected by J.W. Barrington and Edwin H. Bryan and acquired by the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1933, human remains representing five individuals from the beach at Kawailoa, Oahu were collected by Edwin H. Bryan and Kenneth P. Emory and acquired by the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1933, human remains representing one individual from Honolulu, Oahu were donated to the Bishop Museum by John T. Waterhouse. No known individual was identified. No associated funerary objects are present.

In 1933, human remains representing one individual from Kalama, Kailua, Oahu were donated to the Bishop Museum by Frederic C. Scribner. No known individual was identified. No associated funerary objects are present.

In 1936, human remains representing two individuals from a cave on a pipeline at Wailupe, Oahu were collected by Kenneth P. Emory and acquired by the Bishop Museum. No known individuals were identified. No associated funerary objects are present.

In 1937, human remains representing four individuals from Waialae Kahala, Oahu were donated to the Bishop Museum by John McCombs of Bishop Estate. Museum documentation indicates these remains were found in three feet of sand and may be from the 1853 smallpox epidemic. No known individuals were identified. No associated funerary objects are present.

In 1938, human remains representing six individuals from Honouliuli, Ewa, Oahu were collected by Kenneth P. Emory and William A. Lessa and acquired by the Bishop Museum. Museum documentation indicates these remains were in a shallow crypt burial one mile from the coast. No known individuals were identified. No associated funerary objects are present.

In 1939, human remains representing two individuals from Kahala, Oahu were donated to the Bishop Museum by B. Kanakanui Palmer. No known individuals were identified. No associated funerary objects are present.

In 1939, human remains representing one individual from Oahu were collected by Keith K. Jones and acquired by the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1940, human remains representing one individual from Manoa, Oahu were collected by Joel M. Brooks and acquired by the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1940, human remains representing two individuals from Waialae were donated to the Bishop Museum by John McCombs on behalf of the Bishop Estate. No known individuals were identified. The associated funerary object is a fish bone.

In 1941, human remains representing seven individuals from Pearl City, Oahu were donated to the Bishop Museum by Dr. and Mrs. Homer Hayes. No known individuals were identified. The associated funerary object is a stone.

In 1942, human remains representing two individuals from Kualakai, Ewa Beach, Oahu were donated to the Bishop Museum by an unknown donor. No known individuals were identified. No associated funerary objects are present.

In 1946, human remains representing one individual from ''Waialee'' Beach, Oahu were donated to the Bishop Museum by an unknown donor. No

known individual was identified. No associated funerary objects are present.

In 1947, human remains representing two individuals from Kailua, Oahu were donated to the Bishop Museum by Father Gay. No known individuals were identified. No associated funerary objects are present.

In 1948, human remains representing two individuals from Makiki, Oahu were donated to the Bishop Museum by Any Greenwell. No known individuals were identified. The six associated funerary object include glass, ivory and stone beads, shell ornaments, and a bone handle.

In 1948, human remains representing one individual from a cave at Waialua, Oahu were donated to the Bishop Museum by Charlotte Hall. No known individual was identified. No associated funerary objects are present.

In 1948, human remains representing two individuals from Sunset Beach, Oahu were donated to the Bishop Museum by R.P. Franklin. No known individuals were identified. No associated funerary objects are present.

In 1949, human remains representing two individuals from Palolo, Oahu were donated to the Bishop Museum by George M. Pacheco. No known individuals were identified. No associated funerary objects are present. Based on wood fragments and nails found at the site, these remains appear to have been interred in a coffin.

In 1949, human remains representing one individual from Mokuleia, Oahu were received by the Bishop Museum from Otto Degener. No known individual was identified. No associated funerary objects are present.

In 1950, human remains representing two individuals from Sunset Beach, Oahu were donated to the Bishop Museum by Colonel Oliver R. Franklin. No known individuals were identified. No associated funerary objects are present.

In 1950, human remains representing three individuals recovered from Diamond Head, Oahu during property excavation were donated to the Bishop Museum by Kenneth Murphy. No known individuals were identified. No associated funerary objects are present.

In 1950, human remains representing one individual from a cave on Hawaiiloa Ridge, Oahu were donated to the Bishop Museum by Everett E. Carlson. No known individual was identified. No associated funerary objects are present. Donor information indicates these remains were contained in a canoe and box coffin. These objects were not included in the donation.

In 1950, human remains representing two individuals from Kailua, Oahu were donated to the Bishop Museum by Dr. Harold L. Houvener. No known indivdiuals were identified. No associated funerary objects are present.

In 1950, human remains representing two individuals from Honolulu, Oahu were donated to the Bishop Museum by Tommy Giles. No known individuals were identified. The one associated funerary object is a butchered cow bone.

In 1950, human remains representing five individuals from Kuliouou Valley were donated to the Bishop Museum by an unknown donor. No known individuals were identified. The two associated funerary objects are turtle bones.

In 1950, human remains representing one individual from Niu, Oahu were donated to the Bishop Museum by Walter Johnson. No known individual was identified. No associated funerary objects are present.

In 1951, human remains representing fourteen individuals from Kahala, Oahu were collected by Mary Stacey and donated to the Bishop Museum. These remains were encountered during the laying of a sewer line. No known individuals were identified. No associated funerary objects are present.

In 1951, human remains representing one individual from Windward Oahu were donated to the Bishop Museum by an unknown donor. No known individual was identified. No associated funerary objects are present.

In 1951, human remains representing one individual from Wailupe Valley, Oahu were donated to the Bishop Museum by Mrs. George Whisenand. These remains were removed from a small burial cave found by neighborhood children. No known individual was identified. The six associated funerary objects include pieces of tapa, a bone whistle, matting, a comb, a pipe, and cordage.

In 1952, human remains representing one individual from Kahala, Oahu were collected by George F. Arnemann and donated to the Bishop Museum. No known individual was identified. No associated funerary objects are present.

In 1952, human remains representing 56 individuals from Kailua, Oahu were collected by Kenneth P. Emory and donated to the Bishop Museum. These human remains were recovered during construction of a subdivision. No known individuals were identified. No associated funerary objects are present.

In 1952, human remains representing 23 individuals from Kaneohe Bay, Oahu were donated to the Bishop Museum by Kenneth P. Emory. These human remains were collected by Dr. Emory and a University of Hawaii archaeology class. No known individuals were identified. The three associated funerary objects include cloth, shell, and a fish bone.

In 1952, human remains representing 18 individuals from Kailua, Oahu were donated to the Bishop Museum by Dorothy Barrere and Catherine Summers. No known individuals were identified. No associated funerary objects are present.

In 1952, human remains representing one individual from Nuuanu, Oahu were donated to the Bishop Museum by Dr. Howard H. Honda. No known individual was identified. No associated funerary objects are present.

In 1953, human remains representing two individuals from Kailua, Oahu were donated to the Bishop Museum by Dorothy Barrere. No known individuals were identified. No associated funerary objects are present.

In 1953, human remains representing seven individuals from Kailua, Oahu were donated to the Bishop Museum by Catherine Summers. No known individuals were identified. The four associated funerary objects are botanics, metal fragments, and glass beads.

In 1953, human remains representing four individuals from Kailua, Oahu were donated to the Bishop Museum by Mr. and Mrs. Thomas Dewey. These human remains were recovered as a result of bulldozing activity. No known individuals were identified. No associated funerary objects are present.

In 1953, human remains representing one individual from Honolulu, Oahu were donated to the Bishop Museum by Ichiro Oyeda. No known individual was identified. No associated funerary objects are present.

In 1954, human remains representing five individuals from Manoa Valley, Oahu were donated to the Bishop Museum by Edwin H. Bryan, Jr.. These human remains were found in a cave by two boys, and donor information indicates coffin material and post-contact artifacts were seen in the cave. No known individuals were identified. The three associated funerary objects are cloth, an iron implement, and a coffin fragment.

In 1954, human remains representing one individual from Kailua, Oahu were donated to the Bishop Museum by W.E. Thompson. These human remains were recovered as a result of house construction. No known individual was identified. No associated funerary objects are present.

In 1954, human remains representing two individuals from the bank of Kawainui Canal, Kailua, Oahu donated to the Bishop Museum by Catherine Summers. No known individuals were

identified. No associated funerary objects are present.

In 1954, human remains representing one individual from Palolo Valley, Oahu were donated to the Bishop Museum by Rev. Floyd Sullivan, who collected the remains 30–40 years prior to the donation. No known individual was identified. No associated funerary objects are present.

In 1955, human remains representing four individuals from Lanikai, Oahu were donated to the Bishop Museum by Robert Creps. No known individuals were identified. No associated funerary objects are present.

In 1955, human remains representing one individual from Tantalus, Oahu were donated to the Bishop Museum by an unknown person. No known individual was identified. No associated funerary objects are present.

In 1955, human remains representing two individuals from Waikiki, Oahu were donated to the Bishop Museum by an unknown person. No known individuals were identified. No associated funerary objects are present.

In 1955, human remains representing one individual from Oahu were donated to the Bishop Museum by Dr. Howard H. Honda. No known individual was identified. No associated funerary objects are present.

In 1955, human remains representing one individual from Wailupe, Oahu were donated to the Bishop Museum by E.B. Kudlich. No known individual was identified. No associated funerary objects are present.

In 1956, human remains representing 32 individuals from Pupukea, Oahu were donated to the Bishop Museum by Fred Shimote. These human remains were recovered from a reburial pit. No known individuals were identified. No associated funerary objects are present.

In 1956, human remains representing 17 individuals from Kailua, Oahu were donated to the Bishop Museum by Kenneth P. Emory. These human remains were collected by Kenneth P. Emory and assistants. The one associated funerary object is a turtle bone.

In 1956, human remains representing 26 individuals from Wailupe Valley, Oahu were donated to the Bishop Museum by Lawrence P. Richards. No known individuals were identified. The one associated funerary object is a glass bead.

In 1957, human remains representing nine individuals from Waikiki, Oahu were donated to the Bishop Museum by G.D. Center. No known individuals were identified. The one associated funerary object is a canine bone.

In 1958, human remains representing three individuals from Kuliouou Valley, Oahu were donated to the Bishop Museum by Mrs. Ernest Dias. Donor information indicates these human remains were recovered from a walled cave. No known individuals were identified. No associated funerary objects are present.

In 1958, human remains representing ten individuals from Kailua, Oahu were donated to the Bishop Museum by Arthur M. Tavares. No known individuals were identified. No associated funerary objects are present.

In 1959, human remains representing two individuals from Kalihi Valley, Oahu were donated to the Bishop Museum by Lino Patubo, Jr.. Donor information indicates these human remains were found near a small cave. No known individuals were identified. No associated funerary objects are present.

In 1959, human remains representing seven individuals from Ewa, Oahu were donated to the Bishop Museum by the Anthropology Club of the University of Hawaii. Donor information indicates these remains were recovered from Standard Oil Refinery land. No known individuals were identified. The one associated funerary object is decayed wood.

In 1959, human remains representing one individual from Niu Valley, Oahu were donated to the Bishop Museum by R. Smith. Donor information indicates these human remains were found in a cave. No known individual was identified. No associated funerary objects are present.

In 1960, human remains representing one individual from Kalihi Valley, Oahu were donated to the Bishop Museum by Manuel Diaz, Charles Kahunanui, and Randy Babino. No known individual was identified. No associated funerary objects are present.

In 1960, human remains representing one individual from Kawailoa Valley, Oahu were donated to the Bishop Museum by A. Anderson. No known individual was identified. The four associated funerary objects include tapa, sticks, kukui nuts, and fibers.

In 1961, human remains representing one individual from Kailua, Oahu were collected and donated to the Bishop Museum by Chet Gorman. Donor information indicates these human remains were recovered from the west bank of Kaelepulu Stream after exposure by bulldozing. No known individual was identified. No associated funerary objects are present.

In 1961, human remains representing one individual from Waikiki, Oahu were collected and donated to the Bishop Museum by Chet Gorman. No known individual was identified. The three associated funerary objects include two glass bottles, and a kukui nut.

In 1961, human remains representing seven individuals from Kaluanui Ridge, Oahu were donated to the Bishop Museum by Marimari Kellum. No known individuals were identified. The one associated funerary object is a drilled dog tooth.

In 1962, human remains representing one individual from Waikiki, Oahu were donated to the Bishop Museum by David Jackson Engineering Equipment Company. No known individual was identified. The one associated funerary object is a piece of metal.

In 1962, human remains representing one individual from Kailua, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. Donor information indicates these human remains were recovered from the west bank of Kaelepulu Stream. No known individual was identified. The three associated funerary objects include a basalt flake, sand, and a shell.

In 1962, human remains representing one individual from Waialae-Kahala were collected and donated to the Bishop Museum by Robert N. Bowen. No known individual was identified. The one associated funerary object is a piece of coral.

In 1963, human remains representing five individuals from Waikiki, Oahu were donated to the Bishop Museum by W.T. Chang contractors. No known individuals were identified. No associated funerary objects are present.

In 1963, human remains representing 96 individuals from Waikiki, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. No known individuals were identified. The 17 associated funerary objects include coral, shells, a soil sample, a glass jar, sand and charcoal samples, and bovine bones.

In 1963, human remains representing one individual from Kailua, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. Donor information indicates these human remains were collected from a bank on the Kaelepulu stream. No known individual was identified. No associated funerary objects are present.

In 1963, human remains representing three individuals from Waialae Golf Course, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. No known individuals were identified. The three associated funerary objects include a piece of basalt, a piece of coral, and whale tooth beads.

In 1964, human remains representing three individuals from Maili Beach Park, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. No known individuals were identified. The nine associated funerary objects include a soil sample, a botanical sample, a wood fragment, nails, sand, and metal fragments.

In 1964, human remains representing one individual from Kailua, Oahu were donated to the Bishop Museum by Homer Hayes. No known individual was identified. No associated funerary objects are present.

In 1964, human remains representing four individuals from Waikiki, Oahu were collected and donated to the Bishop Museum by Lloyd J. Soehren. No known individuals were identified. No associated funerary objects are present.

In 1964, human remains representing seven individual from Dillingham, Oahu were donated to the Bishop Museum by an unknown person. No known individuals were identified. No associated funerary objects are present.

In 1964, human remains representing one individual from St. Louis Heights, Oahu were donated to the Bishop Museum by Glenn Shiroma. No known individual was identified. No associated funerary objects are present.

In 1964, human remains representing one individual from Kailua, Oahu were donated to the Bishop Museum by Allan M. Anderson. No known individual was identified. No associated funerary objects are present.

In 1965, human remains representing one individual from Black Point, Oahu were donated to the Bishop Museum by George Kuprash. Donor information indicates these human remains were recovered during house construction. No known individual was identified. The one associated funerary object is a soil sample.

In 1965, human remains representing one individual from Makapuu Beach, Oahu were donated to the Bishop Museum by John Wolfe. No known individual was identified. No associated funerary objects are present.

In 1965, human remains representing one individual from Kahala, Oahu were donated to the Bishop Museum by Barbara Walker. No known individual was identified. The seven associated funerary objects include basalt stones, coral, fishbone, and shell.

In 1965, human remains representing 43 individuals from Palolo Valley, Oahu were donated to the Bishop Museum by Hiram Teshima. No known individuals were identified. The eight associated funerary objects include a gourd fragment, a bird beak, lauhala pieces, rat bones, and a coconut.

In 1965, human remains representing one individual from Kahuku, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. No known individual was identified. No associated funerary objects are present.

In 1965, human remains representing nine individuals from Manoa Valley, Oahu were donated to the Bishop Museum by Joseph Backus. Donor information indicates these human remains were removed from a cave. No known individuals were identified. The nine associated funerary objects include a wood pipe, a bone comb, nails, a button, glass beads, and kukui nuts.

In 1965, human remains representing two individuals from Kaneohe Bay, Oahu were donated to the Bishop Museum by L.D. Ackerman. No known individuals were identified. The one associated funerary object is a rabbit skull.

In 1966, human remains representing 32 individuals from Kahala cemetary, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen and Lloyd J. Soehren. Donor information indicates these human remains were collected during construction activity. No known individuals were identified. The 189 associated funerary objects include coins, rings, glass beads, pottery, pipes, cloth, and thimbles.

In 1966, human remains representing one individual from Kahala, Oahu were donated to the Bishop Museum by Lloyd J. Soehren. No known individual was identified. No associated funerary objects are present.

In 1966, human remains representing two individuals from Aina Haina, Oahu were collected and donated to the Bishop Museum by Lloyd J. Soehren. Donor information indicates these human remains were removed from a small cave. No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing one individual from Kahala, Oahu were collected and donated to the Bishop Museum by Robert N. Bowen. Donor information indicates these human remains were recovered during construction activity. No known individual was identified. No associated funerary objects are present.

In 1966, human remains representing one individual from Kailua, Oahu were donated to the Bishop Museum by an unknown person. Information with these human remains indicates they were recovered by a construction crew. No known individual was identified. No associated funerary objects are present.

In 1966, human remains representing one individual from Makiki Heights, Oahu were donated to the Bishop Museum by George Santana and Milburn Halemanu. No known individual was identified. No associated funerary objects are present.

In 1966, human remains representing one individual from Kawailoa, Oahu were donated to the Bishop Museum by P. Crooks. No known individual was identified. No associated funerary objects are present.

In 1967, human remains representing one individual from Waikiki, Oahu were collected and donated to the Bishop Museum by Lloyd J. Soehren. No known individual was identified. The one associated funerary object is a shell.

In 1967, human remains representing one individual from Waimea Valley, Oahu were donated to the Bishop Museum by T. Foss. No known individual was identified. No associated funerary objects are present.

In 1969, human remains representing one individual from Laie, Oahu were donated to the Bishop Museum by Hal H. Hunter. Donor information indicates these human remains were recovered from an eroding sand dune. No known individual was identified. No associated funerary objects are present.

In 1969, human remains representing four individuals from Kahuku, Oahu were donated to the Bishop Museum by Sidney Kim-Han of the Honolulu Police Department. Donor information indicates these human remains were recovered from the ocean side of the Kahuku rubbish dump. No known individuals were identified. No associated funerary objects are present.

In 1969, human remains representing one individual from Haleiwa, Oahu were donated to the Bishop Museum by Frank O. Hay, Jr.. Donor information indicates these human remains were washed out by oceanwaves at the site. No known individual was identified. The one associated funerary object is a rock.

In 1969, human remains representing one individual from Kaneaki Heiau, Makaha, Oahu were accessioned by the Bishop Museum. These human remains were collected by Edmund Ladd and Russ Apple and are associated with Bishop Museum Archaeology project 012. No known individual was identified. No associated funerary objects are present.

In 1970, human remains representing eight individuals from Waikiki, Oahu were donated to the Bishop Museum by the Sheraton Hawaii Corp. Donor information indicates these human remains were recovered during excavations for tank construction. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing 11 individuals from Kaalakei Ridge, Oahu were recovered from a cave by Patrick C. McCoy during Bishop Museum Archaeology Project 045. No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing three individuals from the north shore of Oahu were donated to the Bishop Museum by Dr. James Thoene. Donor information indicates Dr. Thoene received these human remains from a transient. No known individuals were identified. The three associated funerary objects include a stick, cordage, and basalt.

In 1972, human remains representing one individual from Kuliouou, Oahu were donated to the Bishop Museum by Roxanne Grigalot. No known individual was identified. No associated funerary objects are present.

In 1972, human remains representing two individuals from Haiku Valley, Oahu were collected and donated to the Bishop Museum by Robert Quick. Donor information indicates these human remains were recovered during bulldozing activity. No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing five individuals from Kahuku, Oahu were donated to the Bishop Museum by D. Yuen. No known individuals were identified. The one associated funerary object is a bird bone.

In 1974, human remains representing one individual from Oahu were donated to the Bishop Museum by Dr. Kam Chun. Donor information indicates Dr. Chun received these human remains in 1927 from a naval officer at the Wailupe Naval Station. The exact provenance of these human remains is unknown. No known individual was identified. No associated funerary objects are present.

In 1974, human remains representing four individuals from Kailua were donated to the Bishop Museum by Gene Hunter. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing one individual from an unspecified location on Oahu were donated to the Bishop Musem by Beth Cutting. Donor information indicates these human remains were purchased from an antique shop. No known individual was identified. No associated funerary objects are present.

In 1975, human remains representing one individual from Kaneohe were recovered during Bishop Museum Archaeology Project 60 and 138 by Patrick C. McCoy, Aki Sinoto, Ranjit Cooray, Patrick Kirch, and Paul Rosendahl. No known individual was identified. No associated funerary objects are present.

In 1977, human remains representing one individual from Laie, Oahu were donated to the Bishop Museum by Aki Sinoto. No known individual was identified. The one associated funerary object is a canine bone.

In 1978, human remains representing two individuals from Kahuku, Oahu were donated to the Bishop Museum by the Honolulu Police Department. No known individuals were identified. The one associated funerary object is fish bone.

In 1979, human remains representing three individuals from Makiki, Oahu were recovered by Eric Komori during the Bishop Museum Archaeology Project 222. Project documentation indicates these human remains were recovered from the former Hawaii Sugar Planters Association Experiment Station. No known individuals were identified. The one associated funerary object is glass bead.

In 1980, human remains representing two individuals from Honolulu, Oahu were donated to the Bishop Museum by Royal Queen Emma Partners. No known individuals were identified. No associated funerary objects are present.

In 1980, human remains representing one individual from Laie, Oahu were donated to the Bishop Museum by the Honolulu Police Department. Donor information indicates these human remains were recovered from a sand burial. No known individual was identified. No associated funerary objects are present.

In 1980, human remains representing nine individuals from Honouliuli, Oahu were collected and donated to the Bishop Museum by Robert Albert, Douglas Borthwick, and William Folk. Donor information indicates these human remains were recovered from coral sinkholes. No known individuals were identified. No associated funerary objects are present.

In 1981, human remains representing five individuals from the Yokohama Bay area, Oahu were donated to the Bishop Museum by Officer Louis Souza of the Honolulu Police Department. Donor information indicates these human remains were found in a cave by hikers. No known individuals were identified. No associated funerary objects are present.

In 1981, human remains representing eight individuals from Waikiki, Oahu were collected and donated to the Bishop Museum by Bertell Davis. No known individuals were identified. No associated funerary objects are present.

In 1982, human remains representing one individual from Kailua Beach, Oahu were donated to the Bishop Museum by Mrs. Faye Myers. No known individual was identified. The three associated funerary objects include a turtle bone, a stone, and a nail.

In 1982, human remains representing one individual from Kailua, Oahu were donated to the Bishop Museum by Ray H. Greenfield. No known individual was identified. No associated funerary objects are present.

In 1982, human remains representing three individuals from Anahulu, Waialua, Oahu were collected and donated to the Bishop Museum by Arthur Saxe. No known individuals were identified. The three associated funerary objects include kapa, cordage, and a kukui nut.

In 1983, human remains representing four individuals from Kaneohe or Kahaluu, Oahu were donated to the Bishop Museum by Ray H. Greenfield. Donor information indicates that Mr. Greenfield collected the human remains in c. 1963, but could not remember the specific location. No known individuals were identified. No associated funerary objects are present.

In 1984, human remains representing two individuals from Kawailoa were recovered by Anne M. Garland during Bishop Museum Archaeology Project 324. No known individuals were identified. No associated funerary objects are present.

In 1984, human remains representing two individuals from Waimea, Oahu were donated to the Bishop Museum by an unknown person. No known individuals were identfied. No associated funerary objects are present.

In 1985, human remains representing two individuals from Waikalua-loko, Kaneohe, Oahu were recovered by Stephan Clark and Mary Riford during Bishop Museum Archaeology Project 347. No known individuals were identified. The two associated funerary objects are basalt cobbles.

In 1986, human remains representing two individuals from Kahala, Oahu were collected and donated to the Bishop Museum by Toni Han and Wendall Kim. Donor information indicates these human remains were recovered during a gardening project. No known individuals were identified. The five asssociated funerary objects are shell, glass fragments, metal fragments, and a porcine bone.

In 1986, human remains representing one individual from Queen's Beach, Oahu were collected and donated to the Bishop Museum by Toni Han and Aki Sinoto. No known individual was

identified. The two associated funerary objects are a penny, and a bovine bone.

In 1987, human remains representing one individual from Makaha, Oahu were recovered by Eric Komori during Bishop Museum Archaeology Project 382. No known individual was identified. No associated funerary objects are present.

In 1989, human remains representing one individual from Kahuku, Oahu were collected and donated to the Bishop Museum by Paul Cleghorn. Donor information indicates these human remains were recovered during construction activity. No known individual was identified. The one associated funerary object is a shell.

In 1990, human remains representing one individual from the Sunset Beach area were donated to the Bishop Museum by Douglas M. Hawkins. Donor information indicates these human remains were collected in 1957. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing one individual from Oahu were donated to the Bishop Museum by Christopher A. Hays. Donor information indicates the donor's father removed these human remains from a burial cave at some time during 1963–1966. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing one individual from Waianae, Oahu were found in the collections of the Bishop Museum. Information with the remains indicates they were acquired from Dr. C.P. Hoyt at an unknown date. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing one individual from Kahuku, Oahu were found in the collections of the Bishop Museum. Information with the remains indicates they were acquired from Aki Sinoto and Eric Komori at an unknown date. No known individual was identified. The three associated funerary objects are porcine bone, shell, wood fragments.

In 1995, human remains representing one individual from Nuuanu Valley, Oahu were found in the collections of the Bishop Museum. No acquisition date or donor has been identified. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing 11 individuals from Kalihi Valley and Manoa Valley, Oahu were found in the collections of the Bishop Museum. Information with these human remains indicates they were donated in 1916 by a Mr. Olsen. No known individuals were identified. No associated funerary objects are present.

In 1995, human remains representing one individual from Kailua, Oahu were found in the collections of the Bishop Museum. Information with these human remains indicates they were donated circa 1938 from a Dr. Dudley. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing eight individuals from Kuliouou, Oahu were found in the collections of the Bishop Museum. Information with these human remains indicates they were collected by Kenneth P. Emory, acquisition date unknown. No known individuals were identified. No associated funerary objects are present.

In 1996, human remains representing one individual from Waikiki, Oahu were found in the collections of the Bishop Museum. Information with the remains indicates they were acquired during the early 1900s from an unknown donor. No known individual was identified. No associated funerary objects are present.

In 1996, human remains representing one individual from Kaneohe, Oahu were donated to the Bishop Museum by Nicolas Fern. No known individual was identified. No associated funerary objects are present.

In 1996, human remains representing one individual from Kuliouou were found in the collections of the Bishop Museum. Information with these remains indicates they were donated in 1956 by Kenneth P. Emory. No known individual was identified. No associated funerary objects are present.

In 1996, human remains representing one individual from Oahu were found in the collections of the Bishop Museum. No further information is available. No known individual was identified. No associated funerary objects are present.

In 1996, human remains representing one individual from Maunalua, Oahu were found in the collections of the Bishop Museum. Information with the remains indicates they were donated by Kenneth P. Emory at an unknown date. No known individual was identified. No associated funerary objects are present.

Based on the style and type of associated funerary objects, manner of interments, and recovery locations, the human remains listed above have been determined to be Native Hawaiian. In consultation with Native Hawaiian organizations, the Bishop Museum decided that no attempt would be made to determine the age of the human remains.

Based on the above mentioned information, officials of the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 953 individuals of Native American ancestry. Officials of the Bishop Museum have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 357 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Adminstrator of the Island Burial Councils, Alu Like, Hawaiian Civic Club of Honolulu, Daughters and Sons of Hawaiian Warriors, Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, Kamehameha Schools/Bishop Estate, Nahoa 'Olelo O Kamehameha Society, the Oahu Burial Council, the Office of Hawaiian Affairs, and Royal Order of Kamehameha I.

This notice has been sent to officials of Adminstrator of the Island Burial Councils, Alu Like, Hawaiian Civic Club of Honolulu, Daughters and Sons of Hawaiian Warriors, Hui Malama I Na Kupuna O Hawai'i Nei, Ka Lahui Hawai'i, Kamehameha Schools/Bishop Estate, Nahoa 'Olelo O Kamehameha Society, the Oahu Burial Council, the Office of Hawaiian Affairs, and Royal Order of Kamehameha I. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Janet Ness, Registrar, Bernice Pauahi Bishop Museum, 1525 Bernice Street, Honolulu, HI 96817; telephone: (808) 848–4105; before February 27, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated Native Hawaiian organizations may begin after that date if no additional claimants come forward.

Dated: January 20, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeologist and Ethnography Program.

[FR Doc. 98–1993 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Maine in the Possession of the Department of Anthropology, University of Maine, Orono, ME

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Maine in the possession of the Department of Anthropology, University of Maine, Orono, ME.

A detailed assessment of the human remains was made by University of Maine professional staff and a consulting forensic anthropologist in consultation with representatives of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation.

Prior to 1966, human remains representing one individual were uncovered at Benton Falls, ME during a mill foundation excavation. These human remains were donated to the Department of Anthropology, University of Maine by an unknown person. No known individual was identified. The three associated funerary objects are tubular copper beads.

Based on the associated funerary objects, this individual has been determined to be Native American. The copper beads also appear to be from the historic period (post–1600 AD). Because these human remains are likely from the post-contact period (post–1600 A.D.) and historical documents place the Wabanaki in Maine during this time, these human remains are affiliated with the Micmac, Malecite, Passamaquoddy, Penobscot present-day tribes.

In 1968, human remains representing one individual were recovered from the Hathaway site (91–1), Passadumkeag, ME during an archaeological excavation conducted by Dr. Dean Snow and sponsored by the University of Maine and the National Science Foundation. No known individual was identified. No associated funerary objects were present.

Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.'' A radiocarbon date of 200+/–80 A.D. from charcoal near the human remains dates these remains to well within the Ceramic Period considered ancestral to the present-day tribes of Maine.

During the 1960s, human remains representing one individual were donated to the University of Maine by the Portland Society of Natural History. In 1930, these human remains were recovered during streetcar track construction in Waterville, ME. No known individuals were identified. No associated funerary objects are present.

Based on dental morphology, this individual has been determined to be Native American. Published reports of the excavation indicated there was red-stained sand in association with these human remains (the sand was not recovered). Based on the state of preservation and the lack of red staining on these human remains, the date of burial has been estimated to be from the Ceramic into the Historic period (c. 1,000 B.C. to post–1600 A.D.). Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

During the 1960s, human remains representing one individual were donated to the University of Maine by the Portland National History Society. No known individual was identified. No associated funerary objects are present.

Information accompanying these human remains indicate they were recovered from Rogers (possibly Roques or Rogues) Island. No further information is available. Based on the state of preservation of the remains and coastal location of the site, a shell midden context for these human remains is likely. Interment in shell middens is commonly associated with the Ceramic period. Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

During the 1960s, human remains representing one individual were donated to the Department of Anthropology, University of Maine by the Portland Natural History Society. No known individual was identified. No associated funerary objects are present.

Information accompanying these human remains indicates that they were acquired in 1924 by Mr. Samuel Hiscock of Round Pond, ME from a ''workman'' digging in the Damariscotta Oyster Shell Heaps, ME. This information also suggests there may have been some Ceramic period objects with the human remains which were not included in the donation. Archaeological evidence based on the material culture of the Damariscotta Shell Heaps indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

During the 1960s, human remains representing two individuals from Cape Elizabeth and South Freeport, ME were donated to the Department of Anthropology, University of Maine by the Portland Natural History Society. No known individuals were identified. No associated funerary objects are present.

Information with these human remains indicates they were removed from Cape Elizabeth, ME and donated to the Portland Natural History Society in 1955 by Mr. and Mrs. Rogerson of Portland, ME; and a Mr. Randall donated additional human remains from South Freeport, ME. These human remains were not cataloged by the Portland Natural History Society, and have been co-mingled so that it is not possible to separate them by locality. Based on dental morphology, these human remains have been determined to be Native American. Based on the recovery of these human remains from the bases of eroded banks and the state of preservation of the remains, the date of burial has been estimated to be from the Ceramic into the Historic period (c. 1,000 B.C. to post–1600 A.D.). Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

Prior to 1971, human remains representing one individual from ''High Point'', Hampden, ME were donated to the Department of Anthropology, possibly by Mr. Earl Banks. No known individual was identified. No funerary objects are present.

Based on the molar wear patterns present, this individual has been determined to be Native American. Although this exact site is unknown, the state of preservation of these human remains indicate that they are fairly recent, probably post-contact (c.1600).

Because these human remains are likely from the post-contact period (post–1600 A.D.) and historical documents place the Wabanaki in Maine during this time, these human remains are affiliated with the Micmac, Malecite, Passamaquoddy, Penobscot present-day tribes.

In 1973, human remains representing a minimum of one individual were recovered from a highly disturbed sand dune (71–2) in Farmington Falls, ME by unknown person(s) and have been curated at the Department of Anthropology, University of Maine, since that time. No known individual was identified. No associated funerary objects are present.

Based on the state of preservation, these human remains are believed to date from the Ceramic period into the contact period. Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

In 1973, human remains representing two individuals were removed from Winnock's Neck (site 8–1), Scarboro, ME during investigations by amateur archeologists. These human remains and field notes pertaining to them were subsequently donated to the University of Maine by unknown individual(s). No known individuals were identified. No associated funerary objects are present.

The field notes accompanying these remains indicate they were recovered with three pottery sherds, indicating a likely Ceramic Period date for these human remains. Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

In 1984, human remains representing a minimum of one individual from the Todd site (17–11) Bremem, ME were recovered by a University of Maine research team. No known individual was identified. No associated funerary objects are present.

The Todd site (17–11) has been identified as a shell midden dating to the late Ceramic period (post 1000 A.D.). Archaeological evidence based on the material culture of Maine indicates that the Ceramic Period (c. 1,000 B.C. to the contact period) ''is the prehistory of those Algonkian speakers known generally as the Wabenakis; including the Micmac, Malecite, Passamaquoddy, [and] Penobscot.''

In 1989, human remains representing a minimum of nine individuals were recovered from the Eddington Bend site (74–8), Eddington, ME during a FERC-required recovery excavation by University of Maine personnel. No known individuals were identified. No associated funerary objects were recoverable.

Based on dental morphology, these individuals have been determined to be Native American. Based on the presence of a highly oxidized and unrecoverable piece of iron in the pit feature with the human remains and apparent iron or steel tool cut marks on the bones, these human remains probably date to the post-contact period. Because these human remains are likely from the post-contact period (post–1600 A.D.) and historical documents place the Wabanaki in Maine during this time, these human remains are affiliated with the Micmac, Malecite, Passamaquoddy, Penobscot present-day tribes.

Based on the above mentioned information, officials of the Department of Anthropology, University of Maine have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 21 individuals of Native American ancestry. Officials of the Department of Anthropology, University of Maine have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the three objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Department of Anthropology, University of Maine have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation.

This notice has been sent to officials of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. David Sanger, Department of Anthropology, University of Maine, Orono, ME 04469; telephone: (207) 581–1894, before February 27, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: January 15, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–1992 Filed 1–27–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

President's Advisory Board on Race; Meetings

ACTION: President's Advisory Board on Race and related meetings.

SUMMARY: The President's Advisory Board on Race will meet on February 10 and 11, 1998 in the San Francisco Bay area. On February 10, Advisory Board members will visit sites in the area where organizations are having success at addressing issues relating to poverty and race. At approximately 6:00 p.m., there will be a community forum in San Jose at a site to be determined. The purpose of the forum is to provide an opportunity for residents from the community to raise issues of general concern in the areas of race and racial reconciliation.

On February 11, the Advisory Board will meet in San Jose at a site to be determined to discuss issues relating to race and poverty. The meeting will include panel discussions with national experts, as well as individuals with local and regional expertise. The meeting will include time for questions from the public.

The public is welcome to attend the community forum and the Advisory Board meeting on a first-come, first-seated basis. Members of the public may also submit to the contact person, any time before or after the meeting, written statements to the Board. Written comments may be submitted by mail, telegram, facsimile, or electronic mail, and should contain the writer's name, address and commercial, government, or organizational affiliation, if any. The address of the President's Initiative on Race is 750 17th Street, NW., Washington, D.C. 20503. The electronic mail address is http://www.whitehouse/gov/Initiatives/OneAmerica.

FOR FURTHER INFORMATION: Contact our main office number, (202) 395–1010, for the exact time and location of the meetings. Other comments or questions regarding this meeting may be directed to Randy D. Ayers, (202) 395–1010, or via facsimile, (202) 395–1020.

Dated: January 23, 1998.

Randy Ayers,

Executive Officer.

[FR Doc. 98–2092 Filed 1–23–98; 3:22 pm]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *John L. Conner, Jr., et al.*, Civil Action No. B–C–97–85 (E.D. Ark.), was lodged with the United States District Court for the Eastern District of Arkansas on December 19, 1997.

The proposed consent decree would resolve the United States' allegations in the above-referenced enforcement action that Defendants have violated Sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344, by unlawfully discharging dredged or fill material into approximately 70 acres of waters of the United States at twelve different sites in Jackson, Woodruff and Lawrence Counties.

The proposed consent decree would require Defendants: (1) To pay a $400,000 civil penalty; (2) to restore the three largest violation sites, which total approximately 50 acres; (30) to create approximately 85 acres of wetlands; and (4) to preserve 100 acres of forested land, 95 of which are currently wetlands. The decree would also permanently enjoin Defendants from discharging dredged or fill materials into waters of the United States without an applicable permit.

The Department of Justice will accept written comments relating to the proposed consent decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Wendy L. Blake, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, and should refer to *United States* v. *Conner et al.*, DJ Reference No. 90–5–1–4–385.

The proposed consent decree may be examined at either the Clerk's Office, United States District Court, Eastern District of Arkansas, Room 402, 600 West Capitol Street, Little Rock, Arkansas, or at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005. Requests for a copy of the consent decree may be mailed to the Consent Decree Library at the above address and must include a check in the amount of $20.25.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 98–1994 Filed 1–27–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 22, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd, R. Owen ([202] 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call [202] 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ([202] 395–7316), within 30 days from the date of this publication in the **Federal Register**. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Administrative Procedures—20 CFR 601 including Form MA 8–7.

OMB Number: 1205–0222 (Extension).

Frequency: As needed.

Affected Public: State or local governments.

Number of Respondents: 53.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 53.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Administrative Procedures—20 CFR 601 requires States to submit copies of their unemployment compensation laws for approval by the Secretary of Labor, as well as all relevant State materials which allow the Secretary to make findings required by the Internal Revenue Code, Social Security Act and Wagner-Peyser Act.

Agency: Employment Training Administration.

Title: Lifelong Learning Demonstration Follow-up Survey.

OMB Number: 1205–0NEW.

Frequency: One-Time.

Affected Public: Individuals.

Number of Respondents: 4,000.

Estimated Time Per Respondent: 35 minutes.

Total Burden Hours: 2,333.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Lifelong Learning demonstration provided randomly-selected adult workers in the Greater Baltimore area with comprehensive information about post-secondary education and training opportunities and streamlined referrals of interested workers educational institutions. The results of this data collection will be used by both DOL and Education to evaluate the Demonstration, to inform future public information campaigns on lifelong learning, and provide useful information for other ETA and Education programs affecting the education and training of adults in the U.S. work force.

Agency: Employment Standards Administration.

Title: Request from Claimant for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements (Form CA–1032).

OMB Number: 1215–0151 (Extension).

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 50,000.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 16,667.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $16,000.

Description: The Federal Employees' Compensation Act (FECA) provides for the collection of information from claimants, receiving continuing compensation on the periodic disability rolls. This form is used to obtain necessary information from claimants receiving compensation for an extended period of time. This information is necessary to ensure that compensation being paid is correct.

Agency: Employment Standards Administration.

Title: Application for Farm Labor Contractor and Farm Labor Contractor Employee Certificates of Registration (Form WH–530 replacing current forms WH–510 and WH–512).

OMB Number: 1215–0037 (Extension).

Frequency: Biennially.

Affected Public: Individuals or households; business or other for-profit; farms.

Number of Respondents: 7,500.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 3,750.

Total Annualized capital/startup costs: $1,560.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Migrant and Seasonal Agricultural Worker Protection Act provides that no individual may perform farm labor contracting activities without a certificate of registration. Form WH–530 is the application form which provides the Department of Labor with the information necessary to issue certificates specifying the farm labor contracting activities are authorized.

Agency: Occupational Safety and Health Administration.

Title: Voluntary Protection Program (VPP) Information Collection.

OMB Number: 1218–ONEW.

Frequency: On Occasion.

Affected Public: Applicants to the Voluntary Protection Program.

Number of Respondents: 90 to 100 per year.

Estimated Time Per Respondent: 200 hours.

Total Burden Hours: 18,000.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The information collection is necessary to determine if the applicant has a safety and health program that should qualify for participation in one of OSHA's Voluntary Protection Programs.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–2036 Filed 1–27–98; 8:45 am]

BILLING CODE 4510–27–M, 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 9, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 9, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 01/05/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,125	Healthtex, Inc (Comp)	Warrenton, GA	12/19/97	Children's Knit Clothing.
34,126	Crown Cork and Seal Co (Wrks)	Philadelphia, PA	12/17/97	Aerosol and Sanitary Cans.
34,127	Country Elegance Wedding (Comp)	North Hollywood, CA ..	12/14/97	Bridal Gowns.
34,128	Romla Ventilator Co (Wrks)	Gardena, CA	11/24/97	Sheet Metal Products.
34,129	National Electrical (Wrks)	E. Stroudsburg, PA	12/03/97	Carbon Brushes.

[FR Doc. 98–2039 Filed 1–27–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

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The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 9, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 9, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 01/12/98]

TA–W	Subject firm (petitioners)	Location	Date of petition	Products(s)
34,130	Unifi, Inc (Co.)	Graham, NC	12/19/97	Coated Yarn.
34,131	Unifi, Inc (Co.)	Lincolnton, NC	12/19/97	Coated Yarn.
34,132	Burgess Machine and Tool (Wkrs)	St. Claire, MI	12/18/97	Plastic Injection Molds.
34,133	Outokumpu Copper Kenosha (USWA)	Kenosha, WI	12/28/97	Light Gauge Brass and Copper Strip.
34,134	P and M Cedar Products (Wkrs)	Anderson, CA	12/13/97	Basswood Window Slats.
34,135	Anchor Glass Container (Wkrs)	Keyser, WV	12/17/97	Glass Containers.
34,136	DELCO Remy America (UAW)	Meridian, MS	12/15/97	Cranking Motors.
34,137	Allied Signal (IUE)	Eatontown, NJ	12/16/97	Power Generators.
34,138	Quality Dinettes, Inc (Wkrs)	Haleyville, AL	11/30/97	Wood Dinette Tables, Chairs.
34,139	Trellebong (Wkrs)	South Haven, MI	12/13/97	Plastic Boot Seals for Vehicles.
34,140	International Jensen (Wkrs)	Punysutawney, PA	12/19/97	Speakers and Components.
34,141	Mascotech Industrial (UAW)	Duffield, VA	12/15/97	Gas and Electric Cook Tops and Ranges.
34,142	Red Kap Industries (Wkrs)	Ripley, MS	12/18/97	Uniforms.
34,143	Prentiss Manufacturing (Co.)	Booneville, MS	12/30/97	Men's Shirts—Work, Western, Sport.
34,144	Alfa Laval Separation (IUE)	Warminster, PA	12/18/97	Centrifuges.
34,145	Bassett Motion Furniture (Co.)	Booneville, MS	12/19/97	Motion Recliners and Sofas.
34,146	Briggs Industries (GMP)	Somerset, PA	12/26/97	China Toilet Bowels and Tanks.
34,147	Empire Jewelry (Wkrs)	New York, NY	12/25/97	Jewelry Finishing.
34,148	Molten Metal Technology (Wkrs)	Fall River, MA	12/22/97	Solid Waste Incinerators.
34,149	Zenith Electronics (Wkrs)	Glenview, IL	01/02/98	Purchasing Dept—Televisions.
34,150	A. Koral Fashion, Inc (Co.)	Schuykill Haven, PA	12/18/97	Men's, Ladies' and Children's Clothing.
34,151	NCR Corp (Co.)	Morristown, TN	01/02/98	Ink Ribbons—Cassette Style.
34,152	Lorraine Wardy/Opal (Wkrs)	El Paso, TX	01/05/98	Ladies' Clothing.

[FR Doc. 98–2038 Filed 1–27–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02054]

Procter & Gamble Health Care Division, Greenville, South Carolina; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on December 5, 1997 in response to a petition filed on behalf of workers at Procter and Gamble, Health Care Division, Greenville, South Carolina.

In a letter dated January 16, 1998, the petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 21st day of January 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–2037 Filed 1–27–98; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–007]

Privacy Act; Annual Notice and Amendment to Systems of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Annual Notice and Amendment of Systems of Records.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974, 5 U.S.C. 552a, to publish a description of the systems of records it maintains containing personal information when a system is substantially revised, deleted, or created. In this notice, NASA provides the required information on all 20 of its previously-noticed systems of records, is deleting from its inventory two systems of records no longer being created or maintained, is renaming an existing system and adding a new routine use which is required by the Personal Responsibility and Work Opportunity Reconciliation Act, and is making several revisions to these existing systems of records to provide editorial and organizational changes to NASA's Systems of Records which were last published in the **Federal Register** on October 10, 1984. The systems of records which are being abolished are entitled ''53BHTR—Wallops Flight Facility Base Housing Tenant Records,'' and ''73FHAP—WSTF Federal Housing Administration (FHA) 809 Housing Program—NARA,'' and were previously published in the **Federal Register** on October 10, 1984 (49 FR 39742). The records described in these two existing systems of records will be maintained in accordance with NASA's Records Retention Schedules and will be destroyed accordingly. The system previously identified as ''NASA 10PAYS—Payroll Systems,'' has been renamed as ''NASA 10NPPS—NASA Personal and Payroll System,'' and was previously published in the **Federal Register** on October 10, 1984 (49 FR 39742). We invite public comment on this publication.

EFFECTIVE DATE: Janaury 28, 1998. Comments are invited but must be received in writing on or before February 27, 1998.

ADDRESSES: Chief Information Office, Code AO, NASA Headquarters, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Donald J. Andreotta, 202–358–1367, or Adria A. Lipka, 202–358–1372.

SUPPLEMENTARY INFORMATION: NASA currently maintains 20 systems of records under the Privacy Act. Each system is described and published below in its entirety, as amended.

Donald J. Andreotta,

NASA Privacy Officer.

Table of Contents

NASA 10ACMQ

SYSTEM NAME:

Aircraft Crewmembers Qualifications and Performance Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 11 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Crewmembers of NASA aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains: (1) Record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type of aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: Evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; on occasion by flight operations and safety survey teams; and accident reporting and investigating, including mishap and collateral reports and investigations. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, including mishap and collateral investigations, access to this system of records may be granted to Federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments, but may not be released to the public except pursuant to NASA regulations (see (3) below); (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) public or press releases either by prior approval of the individual, or in case of public release of information from mishap or collateral investigation reports, pursuant to NASA regulations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and magnetic media.

RETRIEVABILITY:

Records are indexed by name or aircraft number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records

Retention Schedules, Schedule 8 (UFI 8650).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Aircraft Management Office, Location 1.

Subsystem Managers: Chief, Ames Research Aircraft Operations Division, Location 2; Chief, Dryden Research Aircraft Operations Division, Location 3; Head, Aeronautical Programs Branch, Location 4; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Office, Location 6; Chief, Flight Operations and Support Division, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief, Contract Management, Location 10; Aircraft Management Officer, Location 11 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Address stated in the Notification Section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals, training schools or instructors, medical units or doctors.

NASA 10BRPA

SYSTEM NAME:

Biographical Records for Public Affairs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal and prominent management and staff officials, program and project managers, scientists, engineers, speakers, other selected employees involved in newsworthy activities, and other participants in Agency programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current biographical information about the individuals with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or the individual's activity with NASA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is compiled, updated, and maintained at NASA Centers for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Public Affairs Division from the news media.

Users are the staff members of the public information office within each Office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: These records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Since the records are a matter of public information, no safeguard requirements are necessary.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, NASA Newsroom, Public Affairs Division, Location 1.

Subsystem Managers: Public Information Officer, Location 2; Public Affairs Officer at Locations 3 through 9 and Location 11 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

An individual desiring to find out if a Biographical System of Records contains a record pertaining to him/her should call, write, or visit the Public Affairs Office at the appropriate NASA location.

RECORD ACCESS PROCEDURES:

An individual may request access to his/her record by calling, writing, or visiting the Public Affairs Office at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

CONTESTING RECORD PROCEDURES:

The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his/her biographical record to his/her own satisfaction.

RECORD SOURCE CATEGORIES:

Information in the biography of an individual in the system of records is provided voluntarily by the individual generally with the aid of a form questionnaire.

NASA 10EEOR

SYSTEM NAME:

Equal Opportunity Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees and applicants for employment.

CATEGORIES OR RECORDS IN THE SYSTEM:

(1) Complaints and (2) applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Executive Order 11478, dated August 8, 1969; EEOC Regulations; 29 CFR part 1614; MSPB Regulations; 5 CFR parts 1200–1202.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to process complaints of alleged

discrimination, including investigations, hearings, and appeals; to maintain active discrimination complaints files; and to retain inactive discrimination complaints files.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Equal Employment Opportunity Commission and the Merit Systems Protection Board to facilitate their processing of discrimination complaints, including investigations, hearings, and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

These records are indexed by name.

SAFEGUARDS:

Records are locked in file cabinets or in secured rooms with access limited to those whose official duties require access. Electronic data are maintained within locked areas in disk form.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 3.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator for Equal Opportunity Programs, Location 1.

Subsystem Managers: Equal Opportunity Officer, Locations 1 and 11; Head, Equal Opportunity Programs Office, Location 4; Director of Equality Opportunity Programs at Locations 5 and 6; Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Current and former employees, applicants, NASA Center Equal Employment Opportunity (EEO) officers, complainants, EEO counselors, EEO investigators, EEOC complaints examiners, Merit System Protection Board officials, complaints coordinators, Associate Administrator for Equal Opportunity Programs.

NASA 10ERMS

SYSTEM NAME:

Executive Resources Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 1, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Approximately 2,000 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be candidates for key positions within NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data, education, training, work experience, and career interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 4103; 5 U.S.C. 3396.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the identification of replacement candidates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative, or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, nonprofit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and magnetic media.

RETRIEVABILITY:

The records are indexed by Social Security Number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records will be maintained in accordance with NASA Records Retention Schedules, Schedule 3.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Training and Development Division, Location 1.

Subsystem Managers: None.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager only.

RECORDS ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals, and NASA personnel records.

NASA 10GMVP

SYSTEM NAME:

Government Motor Vehicle Operators Permit Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 8 and 10 through 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA employees, contractor employees, other Federal and State Government employees. Location 8 does not maintain records on contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 41 CFR subpart 101–38.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the purpose of identifying and checking the records of each applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for review and check against driver's motor vehicle record, and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in locked cabinets with access limited to those whose official duties require access. Room is locked during nonduty hours.

RETENTION AND DISPOSAL:

Records will be maintained in accordance with NASA Records Retention Schedules, Schedule 6.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Logistics Services Branch, Location 1.

Subsystem Managers; Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief, Transportation Branch, Location 6; Chief, Logistics Management Division, Location 7; Transportation and Motor Vehicle Officer, Location 8; Director, Management Operations Office, Location 9; Chief, Installation Services Division, Location 11; Chief, Administration Office, Location 12; Chief, Maintenance and Administration Office, Location 13; Chief of Facilities, Location 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification Section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual NASA employees and individual contractor employees. Location 8 and 11 do not maintain records on contractor employees. Location 7 does not maintain records on Government motor vehicle operator permits.

NASA 10HABC

SYSTEM NAME:

History Archives Biographical Collection.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 and 5 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data; speeches and articles by an individual; correspondence, interviews, and various other tapes and transcripts of program activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and to write dissertations, articles, and books, for Government, commercial and nonprofit publication or develop material for other media use.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Because these records are archive material and, therefore, a matter of public information, there are no special safeguard procedures required.

RETENTION AND DISPOSAL:

Records are maintained in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Historian, Location 1.

Subsystem Managers: JSC History Office Coordinator, Location 5; Public Affairs Officer, Location 11 (Locations are set forth in Appendix A).

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manger listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to same address as stated in the Notification Section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Press releases, newspapers, journals, and the individuals themselves and copies of internal Agency records.

NASA 10HERD

SYSTEM NAME:

Human Experimental and Research Data Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 2, 3, 5, 6, and 9, as stated in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other Government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained in the course of an experiment, test, or research medical data from inflight records, other information collected in connection with an experiment, text, or research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2475 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support system operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and the standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper of hard-copy documents, electronic media, micrographic media, photographs, or motion pictures film; and various medical recordings, such as, electrocardiograph tapes, stripcharts, and x-rays.

RETRIEVABILITY:

By name, experiment, or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

SAFEGUARDS:

Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained in accordance with NASA Records Retention Schedules, Schedule 7.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Occupational Health Office, Location 1.

Subsystem Managers: Chief Engineer, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Operations Office, Location 6; Director, Management Services Office, Location 9. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the system or subsystem manager named above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the Notification Section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

NASA 10HIMS

SYSTEMS NAME:

Health Information Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

In Medical Clinics/Units and Environmental Health Offices at locations 1 through 14 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees and applicants; other Agency Civil Service and military employees working at NASA; visitors to NASA Centers; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data; alcohol/drug patient information; consultation records; Employee Assistance Program records; and health hazard and abatement data.

Astronauts and their families—more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; Public Law 92–255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians, nurses, and other health care specialists in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts;

exposure data for radiation/toxic exposure limits, compliance, and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties; accident reporting and investigating including mishap and collateral reports and investigations; and determining reliability pursuant to the Mission Critical Space Systems Personnel Reliability Program (14 CFR part 1214 subpart 1214.5).

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to the Office of Personnel Management, Occupational Safety and Health Administration, and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such officer or employee for purposes of the Mission Critical Space Systems Personnel Reliability Program; (7) Disclosure to non-NASA personnel performing research, studies, or other activities through arrangements or agreements with NASA and for mutual benefit; (8) Disclosure to the public of pre-space flight information having mission impact concerning an individual crewmember, limited to the crewmember's name and the fact that a medical condition exists; (9) Disclosure to the public of a summary of the space flight crew inflight information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis; (10) During the time period following Shuttle landing and concluding with completion of the post-space flight return to duty medical evaluation, if a flight crewmember is for medical reasons unable to perform a scheduled public event, a disclosure to the public, limited to the crewmember's name and the fact that a medical condition exists; (11) Disclosure to the public of medical conditions arising from accidents, consistent with NASA regulations; and (12) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, microfiche, and electronic media. They are handled between NASA Centers by telecommunications.

RETRIEVABILITY:

By name, date of birth, and Social Security Number.

SAFEGUARDS:

Access limited to concerned medical environmental health personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

In accordance with Office of Personnel Management regulations and NASA Records Retention Schedules 1 and 8.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Occupational Health Office, Location 1.

Subsystem Managers: Medical Director or Medical Administrator or Safety and Health Coordinator at Locations 1 through 15 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appears in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians, and previous medical records of individuals.

NASA 10IGIC

SYSTEM NAME:

Inspector General Investigations Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of NASA, contractors, and subcontractors, and others whose actions have affected NASA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government; (2) Theft of Government property; (3) Bribery; (4) Lost or stolen lunar samples; (5) Misuse of Government property; (6) Conflict of interest; (7) Waiver of claim for overpayment of pay; (8) Leaks of Source Evaluation Board information; (9) Improper personal conduct; (10) Irregularities in awarding contracts; and (11) computer crimes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535(b); 5 U.S.C. App.; 4 CFR part 91; Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for: (1) Providing management with information resulting from investigation(s) and other reports which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing the Administrator of NASA (or the Director, Office of Management and Budget, as appropriate) sufficient information to provide a basis for decisions concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution, to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor, subcontractor, or grantee is able to take administrative or corrective action; (7) Standard routine uses 1

through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Information is retrieved by name of the individual.

SAFEGUARDS:

Information is kept in locked cabinets and in secured vault and computer rooms. Information stored on computers is on a restricted-access server and is password- and user id-protected. Access is limited to Inspector General personnel with a need-to-know.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 9.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Location 1.

Subsystem Managers: Special and Resident Agents in Charge, Locations 2, and 4 through 10 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

None. System is exempt (see below).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Exempt.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(1) The Inspector General Investigations Case Files system of records is exempt from any part of the Privacy Act (5 U.S.C. 552a) EXCEPT the following subsections:

(b) relating to conditions of disclosure; (c) (1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4) (A) through (F) relating to publishing a system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e) (6), (7), (9), (10), and (11) relating to dissemination and maintenance of records; (i) relating to criminal penalties. This exemption applies to those records and information contained in the system of records pertaining to the enforcement of criminal laws.

(2) To the extent that there may exist noncriminal investigative files within this system of records, the Inspector General Investigations Case Files system of records is exempt from the following subsections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to disclosure accounting; (d) relating to access to reports, (e)(1) relating to the type of information maintained in the records; (e)(4) (G), (H), and (I) relating to publishing the system notice information as to agency procedures for access and amendment and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (j) and (k) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212, for the reason that a component of the Office of Inspector General, NASA, performs as its principal function activities pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

NASA 10NPPS

SYSTEM NAME:

NASA Personnel and Payroll System (NPPS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 inclusive and Location 11, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former NASA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The date contained in this system of records includes payroll, employee leave, insurance, labor and human resource distribution and overtime information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; and NASA Financial Management Manual, Sections 9300 and 9600.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Office of Personnel Management (a) withholdings of premiums for life insurance, health benefits, and retirements, and (b) separated employees subject to retirement; (4) To furnish the U.S. Treasury magnetic tape reports and/or electronic files on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, State, and local taxing authorities itemized listings of withholdings for individual income taxes; (8) To respond to requests for State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Office of Personnel Management upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; (13) To furnish data to a consumer reporting agency or bureau, private collection contractor or debt collection center in accordance with section 3711 of Title 31; (14) To forward delinquent debts, and all relevant information related thereto, to the U.S. Department of Treasury, for collection, (15) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, National Directory of New Hires, part of the Federal Parent Locator Service (FPLS) and the Federal Tax Offset System, DHHS/OCSE No. 09–90–0074, for the purpose of locating individuals to establish paternity, establishing and modifying orders of

child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. 104–193; and, (15) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

DISCLOSURE TO CONSUMER REPORTING AGENCIES OR PRIVATE COLLECTION CONTRACTOR:

Disclosure pursuant to 5 U.S.C. 552a(b): Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or ''private collection contractor'' under the Federal Claims Collection Act of 1966 as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701, et seq.).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name and/or Social Security Number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedure which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 3.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, Office of the Chief Financial Officer, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, 6, 7, and 8; Financial Management Officer, Location 3; Director, Financial Management Office, Location 9; Chief, Financial Management Office, Location 11. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as identified in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, personnel office(s), and the individual's supervisor.

NASA 10SCCF

SYSTEM NAME:

Standards of Conduct Counseling Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective NASA employees, who have sought advice or have been counseled regarding conflict of interest requirements for Government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 18 U.S.C. 201, 203, 205, 207–209; 5 U.S.C. 7324–7327; 5 U.S.C. App.; 14 CFR 1207; 5 CFR 2634–2641; 5 CFR 6901; and, Executive Order 12674 as modified by Executive Order 12731.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Office of Personnel Management and Merit Systems Protection Board, for investigation of possible violations of standards of conduct which the agencies directly oversee; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are documentary and maintained in loose leaf binders or file folders.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Restricted access to a few authorized persons; stored in combination lock safe.

RETENTION AND DISPOSAL:

Records are maintained in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for General Law, Code GG, Location 1, and Chief Counsel, Locations 2 through 11.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA Center where employed.

CONTESTING RECORD PROCEDURES:

The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information collected directly from individual and from his/her official employment record.

NASA 10SECR

SYSTEM NAME:

Security Records System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9, and Locations 11, 12, and 14 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Criminal Matter Records, Traffic Management Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2451, et seq., the National Aeronautics and Space Act of 1958, as amended; Espionage and Information Control Statutes, 18 U.S.C. 793 through

799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202–208, and 3056; Internal Security Act of 1950, Atomic Energy Act of 1954, as amended; Executive Order 12958, as amended, Classified National Security Information; Executive Order 12968, as amended, Access to Classified Information; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; Public Law 81–733; Federal Property Management Regulation, 41 CFR Ch. 101; 14 CFR parts 1203 through 1203b; and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA Centers, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the source of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization; (9) To provide relevant information to an internal or external organization or element thereof, conducting audit activities of a NASA contractor or subcontractor; (10) Disclosure to the employer of non-NASA personnel information affecting the reliability of such officer or employee for purposes of the Mission Critical Space Systems Personnel Reliability Program; and, (11) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State Statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State Statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

SAFEGUARDS:

Access to Personnel Security Records is controlled by Government and selected contractor security personnel. However, access to information extracted from personnel security records or information to be inserted into personnel security records is controlled by either Government personnel or selected personnel of NASA contractor guard force or contractor personnel. Examples would be information required to prepare an identification badge and/or process a security clearance visitor request. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces.

After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requester has an official interest. These records are stored in locked containers.

RETENTION AND DISPOSAL:

Records will be maintained in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Management Office, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3, 8, and 11; Chief Protective Services Office, Location 6; Head, Security Services Branch, Location 7; Chief, Security Division, Location 9; Chief, Administration Officer, Location 12; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system of subsystem manager listed above. Requests must contain the following identifying data concerning the requester: First, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 552a(k)(5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a(k)(2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records see Record Access Procedures, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register**.

RECORD SOURCE CATEGORIES:

Personnel Security Records: Exempt.

Criminal Matter Records: Exempt.

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c)(3) Relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(5) and Subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c)(3) Relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(2) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Records subject to the provisions of 5 U.S.C 552(b)(1), required by Executive order to be kept in the interest of national defense or foreign policy, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c)(3) Relating to access to the disclosure accounting; (d) relating to the access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4) (G), (H), and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(1) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1 through 9 inclusive, and Location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA Centers but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees, and former employees; former and current participants in existing and future educational programs, including the Summer High School Apprenticeship Research Program (SHARP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, Life and Health Insurance, Retirement, Upward Mobility, and Work Injury Counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory Appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of address; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement followups; (8) Preemployment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under Agency as well as

negotiated grievance procedures; (12) Separation information including exit interview records, death certificates, and other information concerning death, retirement records, and other information pertaining to separated employees; (13) Special planning analysis and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files, (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records; (6) Followup records for educational programs, such as the Summer High School Apprenticeship Research Program (SHARP) an other existing or future programs.

Agencywide and Center automated personnel information. Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates, and Guest Workers including those at NASA Centers but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations. All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish Government wide Privacy Act Notices in the **Federal Register**.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review, and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative, or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, nonprofit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations having need of information about individuals in the records; (3) Responses may be made to other Federal agencies and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birth date, Social Security Number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 3.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator for Human Resources and Education, Location 1.

Subsystem Managers: Director, Personnel Division, Office of Inspector General, and Chief, Elementary and Secondary Programs Branch, Education Division, Location 1; Director of Personnel, Locations 1 through 4, 6, 8, and 9; Director of Human Resources, Location 5; Head, Office of Human Resources, Location 7; Human Resources Officer, Location 11. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, Social Security Number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by individual concerned are set forth in 14 CFR part 1212.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations, 6, 7, 8, and 9 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of, and applicants for employment, with NASA Exchanges, Recreational Associations, and Employers' Clubs at NASA Centers, and members of or participants in NASA Exchange activities, clubs and/or recreational associations. Individuals with active loans or charge accounts at one or more of the several organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Exchange Employee's personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, membership and participation records on Exchange-sponsored activities, clubs and/or recreational associations, and all other employee records. Credit records on NASA employees with active accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining credit standing; and (8) determining eligibility for participation in Exchange-sponsored club or activities and/or admittance into Exchange facilities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxers; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to worker's compensation organizations; (6) For person to notify in an emergency; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 9.

SYSTEMS MANAGER(S) AND ADDRESS:

NASA Comptroller, Location 1.

Subsystem Managers: Chairperson, Exchange Council, Location 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Manager, NASA Exchange, Location 11; Head, Administrative Management Branch, and Treasurer Wallops Exchange and Morale Association, Location 4. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant Subsystem Managers listed above.

RECORDS ACCESS PROCEDURE:

Requests from individuals should be directed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register**.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the individual's supervisor.

NASA 220RER

SYSTEM NAME:

LeRC Occupational Radiation Exposure Records.

SECURITY CLASSIFICATION;

None.

SYSTEM LOCATION:

Locations 8 and 13, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former LeRC employees and contractor personnel who may be exposed to radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, Social Security Number, employment, and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; 10 CFR part 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA rules section of the **Federal Register**.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Environmental Health, Location 8.

Subsystem Manager: Manager, Plum Brook Reactor Facility, Location 13. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant System Manager or Subsystem Manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules section of the **Federal Register**.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 51LISTS

SYSTEM NAME:

Locator and Information Services Tracking System (LISTS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 4 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All on-site and off-site NASA/GSFC civil servants and on-site and near-site contractors, tenants, and other guest workers possessing or requiring badge identifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

In order to achieve the goal for LISTS of a comprehensive and accurate source of information for institutional services and planning, general, and personal information as noted below must be collected.

General information: (1) Last name; (2) First Name; (3) Middle Initial; (4) Nickname; (5) Title/Degree; (6) Position/Job Title; (7) Skill Classification; (8)

Administrative Level; (9) Organization Code; (10) Mail Code; (11) Telephone Extension; (12) Alternate Telephone Extension; (13) Building; (14) Room; (15) Use of Office Space; (16) Shift Worked; (17) Off-Site Telephone Number; (18) Off-Site Location; (19) Contract Number; (20) Authorization Type if NonContractor/Civil Servant; (21) and (22) Acronym of Contractor and/or Host Organization, and (23) Goddard Identification Number.

Personal information: (1) Social Security Number; (2) Birth Date; (3) Sex; (4) Citizenship; (5) If Not U.S. Citizen, Immigration Alien Number; (7) Street Residence; (7) City Residence; (8) County Residence; (9) State Residence; (10) Zip Code Residence; (11) Residence Telephone; (12) Name of Emergency Contact; (13) Relationship of Emergency Contact; (14) Telephone Number of Emergency Contact; (15) Address of Emergency Contact.

AUTHORITY FOR MAINTENANCE FOR THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The intended official uses of the privacy and personal information are: To assist the Security Office in issuing picture badge identifications and coordinating clearance requests; to establish for the library and authorization for use of its printed materials; to identify the listed emergency contact in case of an emergency to a Center employee or guest worker; and to provide a home address in case an employee or guest worker must be contacted during off hours or for official mailings to a home address.

Other official uses of the general (nonprivacy/personal) records are: To locate individuals working for or at the Goddard Space Flight Center; to improve services provided to the Center including mail room operations, space utilization, identification of potentially hazardous work environments, scheduling of annual physical examinations, and maintenance of electronic mail user identification names; and as a tool for performing short- and long-term institutional planning.

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review, and management decisions regarding personnel and institutional services related to the records.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative, or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, nonprofit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Disclosure may be made to a Congressional office from the record of an individual in response to written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

General fields are indexed by any one or combination of choices to authorized users. Personal fields are not retrievable except by designees in the Security and Library Offices and the System Manager. For the Library, the retrievability is for Social Security Number, immigration alien number, and name only.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212 and through the password and access protections built into the data base management software system.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Administrative Support Branch, Code 231.0, Logistics Management Division, Location 4 as set forth in Appendix A.

NOTIFICATION PROCEDURES:

Apply to the System Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (current employee, former employee, civil servant, contractor, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain.

NASA 51RSCR

SYSTEM NAME:

GSFC Radiation Safety Committee Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 4 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation users and custodians under GSFC cognizance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2743; 44 U.S.C. 3101; USNRC License and GHB 1860.1, ''Radiation Safety Handbook;'' GHB 1860.2, ''Radiation Safety Radio Frequency;'' GHB 1860.3, ''Radiation Safety Laser.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for review and approval of custodians and users of ionizing and non-ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws;

(3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and Executive order; (4) The Food and Drug Administration may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name only.

SAFEGUARDS:

Records are located in locked metal file cabinets in a locked room with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEMS MANAGER(S) AND ADDRESS:

Chief, Health, Safety, and Security Office, Location 4 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individauls may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Employees.

NASA 72XOPR

SYSTEM NAME:

JSC Exchange Activities Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 4 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual Center employees who have applied for an Exchange Scholarship for financial transactions or holdings, employment history, medical data, and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Instruction 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; and the Federal Personnel Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) Pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to Center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA–JSC employees, and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

SAFEGUARDS:

Records are located in locked metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 9.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Exchange Operations, NASA Exchange-JSC, Location 5, as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

For employees of the JSC Exchange Operations, information is obtained from the individual employee, the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees, participation in social or sports activities sponsored by the Exchange information is obtained from the individual participant.

NASA 76RTES

SYSTEM NAME:

KSC Radiation Training and Experience Summary.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 6 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians and/or users of sources radiation (ionizing and non-ionizing). Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name and radiation-related training and experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, 10 CFR part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D–56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include (1) Disclosure to Air Force Radiation Protection Officers at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using sources of radiation to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name, program/project title. Use authorization number and/or license number as applicable.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer, Location 6 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

NASA 76STCS

SYSTEM NAME:

KSC Shuttle Training Certification and Record System (YC–04).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 6 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC Civil Service, KSC contractor, and Department of Defense personnel who have received systems, safety, reliability and quality assurance, and skills, training in support of KSC or Space Shuttle operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses of the information contained in the systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to the Base Operations Contractor, to facilitate the performance of the contracts. The Base Operations Contractor compiles these training records for KSC; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media. All records for KSC are maintained by a NASA Contractor on computer tape with printouts made as required. Bar code readers are utilized for transfer of information on course attendees to a central processing unit by contractor personnel.

RETRIEVABILITY:

Indexed by Social Security Number, name, organization, and skill.

SAFEGUARDS:

These training records are maintained under administrative control of responsible organizations in areas that are locked when not in use. In addition, records are safeguarded in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 8.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Development Branch, Location 6 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORDS ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from class input, rosters, operational records, reports of physical examination completions, and actions implemented by certifications boards.

NASA 76XRAD

SYSTEM NAME:

KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Location 6 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

KSC civil servants and KSC contractor personnel who have received radiation exposure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, exposure history, name of license holder, Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 CFR part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D–56 for State Licensee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA to record exposure and to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Eastern Space and Missile Center, Patrick Air Force Base, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper or hard-copy documents and electronic media.

RETRIEVABILITY:

Records are indexed by name in personnel dosimetry files.

SAFEGUARDS:

Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are maintained and destroyed in accordance with NASA Records Retention Schedules, Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

KSC Radiation Protection Officer, Location 6 as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the System Manager.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Individual is sole source.

APPENDIX A—LOCATION NUMBERS AND MAILING ADDRESSES OF NASA CENTERS AT WHICH RECORDS ARE LOCATED

Location 1

NASA Headquarters, National Aeronautics and Space Administration, Washington, DC 20546–0001

Location 2

Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000

Location 3

Dryden Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273

Location 4

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001

Location 5

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696

Location 6

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001

Location 7

Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–0001

Location 8

Lewis Research Center, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191

Location 9

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001

Location 10

HQ NASA Management Office—JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099

Location 11

John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000

Location 12

JSC White Sands Test Facility, National Aeronautics and Space Administration, P.O. Drawer MM, Las Cruces, NM 88004–0020

Location 13

LeRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870

Location 14

MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, P.O. Box 29300, New Orleans, LA 70189

Location 15

NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554

Appendix B—Standard Routine Uses—NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph ''Routine uses of records maintained in the system, including categories of users and the purpose of such uses'' of the **Federal Register** notice on those systems to which they apply.

Standard Routine Use No. 1—LAW ENFORCEMENT—In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Standard Routine Use No. 2—DISCLOSURE WHEN REQUESTING INFORMATION—A record from this system of records may be disclosed as a 'routine use' to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—DISCLOSURE OF REQUESTED INFORMATION—A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—COURT OR OTHER FORMAL PROCEEDINGS—In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

[FR Doc. 98–2055 Filed 1–27–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing on Korean Air Flight 801 Accident

In connection with its investigation of the accident involving Korean Air flight 801, a Boeing 747–300, in Agana, Guam, on August 6, 1997, the National Transportation Safety Board will convene a public hearing beginning at 9 a.m. local time on Tuesday, March 24, 1998, at the Hawaii Convention Center, 1833 Kalakua Avenue, Honolulu, Hawaii. For more information, contact the NTSB Major Investigations Division, telephone (202) 314–6310 or Paul Schlamm or Keith Holloway, NTSB Office of Public Affairs, telephone (202) 314–6100.

Dated: January 22, 1998.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 98–1995 Filed 1–27–98; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Application for a License to Export a Utilization Facility

Pursuant to 10 CFR 110.70 (b)(1) ''Public notice of receipt of an application'', please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning the application follows.

Name of applicant, date of application, date received, application No.	Description of facility	End use	Country of destination
Combustion Engineering, Dec. 23, 1997, Dec. 31, 1997, XR165.	Two (2) Nuclear utilization facilities 1000MWE each.	Commercial operation of electricity	North Korea.

Dated this 21st day of January 1998 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 98–2018 Filed 1–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of a subcommittee of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 9 and 10, 1998. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public.

Topic of discussion will be the proposed rule text for the revision of 10 CFR part 35 and associated guidance.

DATES: The meeting will begin at 8:00 a.m., on February 9 and 10, 1998.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Patricia Vacherlon, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards,

MS T8F5, Washington, DC 20555, Telephone (301) 415–6376.

Conduct of the Meeting

Mr. Dennis Swanson will chair the meeting. Mr. Dennis Swanson will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Patricia Vacherlon (address listed previously), by February 2, 1998. Statements must pertain to the topics on the agenda for the meeting.

2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about April 1, 1998. Minutes of the meeting will be available on or about May 1, 1998.

4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, part 7.

Dated: January 22, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–2019 Filed 1–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on March 1–2, 1998. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public.

Topics of discussion will include: (1) An update on the revision of 10 CFR part 35 and associated activities to include a detailed discussion on the proposed rule text; (2) a discussion of the committee's response to the Commission's request for the ACMUI to take a focused look at revisions to part 35; (3) a discussion of the committee's response to the Commission's request for the ACMUI to identify criteria for evaluation of committee performance; (4) a discussion of the calibration and the correct use of Strontium-90 eye applicators; (5) a discussion of current training and experience requirements to conduct intravascular brachytherapy; (6) a discussion of previous ACMUI recommendations.

DATES: The meeting will begin at 8 a.m., on March 1 and 2, 1998.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Patricia Vacherlon, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, Telephone (301) 415–6376.

Conduct of the Meeting

Judith Ann Stitt, M.D., will chair the meeting. Dr. Stitt will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Patricia Vacherlon (address listed previously), by February 20, 1998. Statements must pertain to the topics on the agenda for the meeting.

2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street, N.W., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about April 1, 1998. Minutes of the meeting will be available on or about May 1, 1998.

4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *Code of Federal Regulations*, Part 7.

Dated: January 23, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–2080 Filed 1–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Workshop: Demonstrating Compliance With the Radiological Criteria for License Termination—Methods to Conduct a Final Status Survey and Dose Modeling

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of workshop.

SUMMARY: The NRC will hold a public workshop in Rockville, Maryland to receive input from licensees and the public on working papers on ''Methods to Conduct a Final Status Survey,'' and ''Dose Modeling.'' These working papers are being developed as part of a future Regulatory Guide. The Regulatory Guide is being written to describe an acceptable method to comply with the NRC's recent final rule on Radiological Criteria for License Termination (62 FR 39058; July 21, 1997). These working papers have received only limited NRC staff review or approval. The purpose of the workshop is to obtain comments, suggestions, and information from the public on the approach in the working papers so that a better Regulatory Guide can be developed. All interested licensees and members of the public are invited to attend this workshop.

DATES: The workshop will be held on February 18 and 19, 1998, beginning at 9 a.m. and ending at about 5 p.m. There is no pre-registration. Interested parties, unable to attend the workshop, are encouraged to provide written comments by March 13, 1998.

ADDRESSES: The public workshop will be held in the NRC's auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the workshop site is located adjacent to the White Flint Station on the Metro Red Line. A transcript of this workshop will be available for inspection, and copying for a fee at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, on or about March 2, 1998.

Obtaining the Working Paper

Copies of the draft working papers to be discussed will be made available electronically, prior to the workshop, at the NRC Technical Conference Forum Website under the topic ''Final Rule for License Termination'' at http: // techconf.llnl.gov/cgi-bin/topics or from the NRC's Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC 20555; telephone 202–634–3273; fax 202–634–3343. To view

the working papers at the Website, select ''Final Rule on Radiological Criteria for License Termination,'' then select ''Lic Term Document Library,'' then select ''Regulatory Guide,'' and then select ''Module C.2: Regulatory Position—Final Status Survey,'' or ''Module C.1: Regulatory Position—Dose Modeling.''

Meeting Agenda

9:00 Welcome and introduction

9:05 Presentation describing issues considered in developing the draft working paper

10:30 Break

10:45 Public comments on the draft working paper. Attendees will be asked for questions and comments on each section of the draft working paper.

12:00 Lunch

1:30 Continuation of public comments.

5:00 Adjourn

Submitting Written Comments

Comments may be posted electronically on the NRC Technical Conference Forum Website mentioned above. Comments submitted electronically can also be viewed at that Website. Comments may also be mailed to the Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION: For information or questions on meeting arrangements, contact Nina Barnett, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–6187, fax 301–415–5385, E-mail: NMB@NRC.GOV. For technical information or questions, contact Stephen A. McGuire, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–6204; fax: 301–415–5385; E-mail: SAM2@NRC.GOV.

Dated at Rockville, Maryland this 22nd day of January, 1998.

For the Nuclear Regulatory Commission.

Cheryl Trottier,

Chief, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, RES.

[FR Doc. 98–2017 Filed 1–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 5, 1998, through January 15, 1998. The last biweekly notice was published on January 14, 1998 (63 FR 2271).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By February 27, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or

petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: December 17, 1997.

Description of amendment request: The requested amendment revises Technical Specification Section 5.6.5, ''Core Operating Limits Report (COLR).'' The revisions add reference to an additional approved methodology for correlating departure from nucleate boiling (DNB) ratios. The added methodology is the Siemens Power Corporation Topical Report, EMF–92–153(P)(A), ''HTP: Departure from Nucleate Boiling Correlation for High Thermal Performance Fuel.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change adds a methodology that has been previously reviewed and approved by the NRC for determining the DNB safety limit. The new methodology utilizes the High Thermal Performance (HTP) correlation developed by the fuel manufacturer, Siemens Power Corporation. The HTP correlation is empirically based and results in a DNB safety limit that corresponds to a 95% probability at a 95% confidence level that DNB will not occur. The DNB ratio safety limit is a conservative design value which is used as a basis for setting core safety limits. The DNB correlation is not assumed to be an initiator of analyzed events or transients, and use of the new DNB correlation will not alter assumptions relative to mitigation of accident or transient events. The proposed change has been confirmed to ensure that no previously evaluated accident or transient results in a DNB less than the DNB correlation safety limit. The HTP DNB correlation assures with high confidence that, for accidents and transients that do not result in a DNBR less than the HTP DNBR safety limit, departure from nucleate boiling and subsequent fuel overheat will not occur in HTP fuel.

Therefore, the proposed change does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical alteration of plant systems, structures, or components or changes in parameters governing normal plant operation. The proposed change

will allow use of the new DNB correlation in like manner as the existing DNB correlation in the analysis of accidents and transients to assure that the acceptance criteria for current analyses are met. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change allows use of a DNB correlation that determines a safety limit that is slightly lower than the currently used DNB correlation. While the slightly lower DNB correlation safety limit allows a small increase in margin in analyzing accidents and transients, the change from the existing DNB correlation to the proposed DNB correlation is not directly comparable to the margin of safety. This is because the margin of safety for a particular accident or transient is that margin that results from the difference between the DNBR calculated for the particular accident or transient using the DNB correlation and the DNBR safety limit determined by the DNB correlation. Since both the safety limit and the accident or transient calculated DNB use the same DNB correlation, the margin of safety is consistently calculated and evaluated for acceptability. Since both the current and proposed DNB correlation closely approximate test data, and they still meet the 95/95 criterion, and the new DNB correlation does not result in a DNBR from an accident or transient less than the DNBR correlation safety limit, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Gordon E. Edison, Acting.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: June 6, 1997, as supplemented September 25, 1997.

Description of amendment request: The proposed amendment would delete the requirement to sample the spray additive tank per Technical Specification (TS) Table 4.1–2, ''Frequency for Sampling Tests,'' and delete the sodium hydroxide (NaOH) reference in TS Section 5.2.C.1. The request to delete the requirement and the reference was inadvertently omitted as part of the licensee's original submittal dated August 22, 1996, supplemented March 28, 1997, to eliminate the requirement for the NaOH containment spray additive and spray additive tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The request to remove the requirement for the spray additive tank was approved as part of Amendment No. 191 to Operating License No. DPR 26. By letter dated April 23, 1997, the Commission reviewed and approved the amendment request. However, Consolidated Edison failed to include the deletion of the requirement to sample the spray additive tank. The removal of the requirement for the spray additive tank has been analyzed and approved; therefore, there is no further basis for continued testing of the tank. Further, the deletion of the requirement would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed changes allow the containment safeguards to mitigate the consequences of a design basis LOCA [loss-of-coolant accident] in a manner equivalent to that previously approved. Therefore, the proposed changes do not create an accident or malfunction of safety equipment of a different type.

(3) Does the proposed amendment involve a significant reduction in margin of safety?

Response:

With the proposed changes, all of the safety criteria previously evaluated are still valid and remain conservative. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Project Director: S. Singh Bajwa, Director.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: December 17, 1997.

Description of amendment request: The proposed amendments would revise Section 6.9.1.9 of the Technical Specifications (TS) to reference updated or recently approved topical reports, which contain methodologies used to calculate cycle-specific limits contained in the Core Operating Limits Report. These topical reports have all been previously approved by the staff under licensing actions separate from the current amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below.

1. Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes do not involve any modification to existing systems, components, operating limits, or operating procedure. Therefore, these proposed changes will have no impact on the consequences or probabilities of any previously evaluated accidents.

2. Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. No actual plant equipment or operating procedure will be affected by the proposed changes. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the change involve a significant reduction in a margin of safety?

No. Margin of safety is associated with confidence in the design and operation of the plant. The proposed changes to the TS do not involve any change to plant design or operation. Thus, the margin of safety previously analyzed and evaluated is maintained.

Based on this analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28242–0001.

NRC Project Director: Herbert N. Berkow.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 17, 1997.

Description of amendment request: The proposed amendments would revise Section 6.9.1.9 of the Technical Specifications (TS) to reference updated or recently approved topical reports, which contain methodologies used to calculate cycle-specific limits contained in the Core Operating Limits Report. These topical reports have all been previously approved by the staff under licensing actions separate from the current amendment request.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below.

1. Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes do not involve any modification to existing systems, components, operating limits, or operating procedure. Therefore, these proposed changes will have no impact on the consequences or probabilities of any previously evaluated accidents.

2. Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. No actual plant equipment or operating procedure will be affected by the proposed changes. Hence, no new equipment failure modes or accidents from those previously evaluated will be created.

3. Will the change involve a significant reduction in a margin of safety?

No. Margin of safety is associated with confidence in the design and operation of the plant. The proposed changes to the TS do not involve any change to plant design or operation. Thus, the margin of safety previously analyzed and evaluated is maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: J. Murrey Atkins Library, University of North Carolina at Charlotte, 9201 University City Boulevard, North Carolina.

Attorney for licensee: Mr. Albert Carr, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: September 23, 1997.

Description of amendment request: The proposed amendment changes the Reactor Protective System and Engineering Safety Actuation System trip set point and allowable values for steam generator low pressure. The proposed amendment also relocates the RPS and ESFAS response time tables from the Technical Specifications to the Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does Not Involve a Significant Increase in the Probability or Consequences of and Accident Previously Evaluated.

The proposed changes included in this amendment request do not affect the accident initiators in any of the accidents previously evaluated. The proposed trip setpoints and allowable values for Steam Generator Pressure—Low are being reduced by this proposed amendment request. This change is necessary to increase the operating margin between the full power steam generator pressure and these setpoints. The change should reduce the probability of an inadvertent Main Steam Isolation Signal (MSIS) from occurring at power since it will increase the operating space between the operating pressure and the setpoints. Therefore, this amendment request will not increase the probability of any accident previously evaluated.

The secondary system pipe break safety analyses were reanalyzed for the Steam Generator Pressure—Low setpoint reduction effort. This effort included the removal of unnecessary analysis conservatisms resulting in a significant reduction in the associated setpoints. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment used to mitigate the consequences of an accident. The previously evaluated accidents which were determined to be impacted by this setpoint change were evaluated with no significant increase in the consequences.

This amendment request contains the relocation of the Reactor Protective System (RPS) and Engineered Safety Features Actuation System (ESFAS) response time information from the Technical Specifications (TS) to the Safety Analysis Report. This proposed change adopts the TS ''line-item improvement'' as recommended in NRC Generic Letter 93–08, ''Relocation of Technical Specification Tables of Instrument Response Time Limits,'' dated December 29, 1993. The NRC has concluded that 10 CFR 50.36 does not require the response time tables to be retained in TSs and has issued Generic Letter 93–08 as a line item improvement to allow their removal. Response time testing will still be required by the ANO–2 TS after the relocation of the associated response time information in this amendment request. Relocating the response time information for the RPS and ESFAS from the TS to the SAR will not alter these surveillance requirements. Therefore, the relocated response time portion of this amendment request is considered administrative in nature and will not affect the probability or consequences of any accident previously evaluated.

Therefore, this change does *not* involve a significant increase in the

probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from and Previously Evaluated.

The proposed changes do not involve any physical modifications (i.e., new systems, new components, etc.) to the plant. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment used to mitigate the consequences of an accident. The results of the accident reanalyzes suggest no different phenomena or plant behavior than previously considered. The Steam Generator Pressure Low setpoint change does not create any new or different system actuations or interactions than evaluated previously. The relocated response time portion of this amendment request is considered administrative in nature and is not considered an accident initiator. Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

The accidents which were determined to be impacted by the Steam Generator Pressure Low setpoint change were evaluated to ensure acceptable results are maintained. The instrument error calculations supporting the lower Steam Generator Pressure Low setpoint and allowable values will ensure the present accident analysis assumptions are still maintained. The methodology used to determine the instrument loop errors and uncertainties is the same as that used in previous amendment requests that have been reviewed and approved by the NRC. Based on these evaluations, the proposed changes do *not* involve a significant reduction in a margin of safety.

Therefore, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has determined that the reauested chance does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John Hannon.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: September 23, 1997.

Description of amendment request: The proposed amendment reduces the minimum primary system flow that is specified in the technical specifications to reflect the effects of increased primary system resistance caused by steam generator tube plugging.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

Entergy Operations is proposing a change to the Technical Specifications for Arkansas Nuclear One—Unit 2 (ANO–2) to accommodate a larger number of plugged steam generator tubes. The proposed amendment request will revise the Technical Specifications to conservatively account for the reduced reactor coolant system (RCS) flow effects of plugging up to 30 percent of the tubes in either steam generator. This change will reduce the minimum RCS total flow rate from 120.4×10^6 lbm/hr to 108.4×10^6 lbm/hr until the steam generators are replaced. The steam generators are currently scheduled for replacement during the fall of the year 2000. After the steam generators are replaced, the minimum RCS flow will then return to the current value of 120.4×10^6 lbm/hr.

The tube plugs that are installed in the steam generators are passive components by nature. This amendment request does not change the type of plugs which may be installed in the steam generators nor does it change the criteria for plugging steam generator tubes. Reducing the minimum required RCS flow does not change the plant's required mode of operation or modify any active component. Therefore, this amendment request will not significantly increase the probability of the occurrence of a previously evaluated accident.

The installation of steam generator tube plugs removes the affected tube from service thus reducing the heat transfer surface area and increasing the steam generator primary side flow resistance. The increased flow resistance in the affected steam generator leads to a reduction in the RCS flow available for core cooling. The reduced RCS flow rate and heat transfer surface area resulted in a change in several primary and secondary parameters that required reanalysis. The ANO–2 accident reanalyses supporting the additional steam generator tube plugging and the reduction in RCS flow have been completed.

The Design Basis Accidents (DBAs) affected by these changes were reanalyzed to determine if the effects of increased steam generator tube plugging and the reduced RCS flow could result in exceeding the acceptance criteria applicable to each of these events. It was determined that the DBA acceptance criteria would *not* be exceeded as a result of increased steam generator tube plugging and reduction in the minimum RCS flow rate.

Based on the results of the analysis, it is concluded that the emergency core cooling system design satisfies the acceptance criteria of 10 CFR 50.46(b) for a spectrum of small break and large break loss of coolant accidents (LOCAs). The specified acceptable fuel design limits (SAFDLs) and the RCS pressure boundary limits also are not violated. The fuel and core performance were also determined to remain within acceptable limits. Primary and secondary system pressures remain below their respective pressure limits.

Analyses and evaluations of the DBAs have been performed demonstrating that the NRC acceptance criteria for these events are met. The revised analyses and evaluations consider reduced RCS flow, increased RCS temperatures, and increased steam generator tube plugging conditions. Although the offsite dose during a steam generator tube rupture event could increase, the results remain well within 10 CFR [Part] 100 limits. Therefore, the consequences of a previously evaluated accident are not significantly increased.

Therefore, this change does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed amendment reduces the minimum RCS total flow to account for the effects of steam generator tube plugging. This amendment request will not change the modes of operation defined in the Technical Specifications. This change does not add any new equipment, modify any interfaces with any existing equipment, change the equipment's function, or the method of operating the equipment. The proposed change does not change plant conditions in a manner which could

affect other plant components. Reactor core, RCS, and steam generator parameters remain within appropriate design limits during normal operation. The proposed change could not cause any existing equipment to become an accident initiator. Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

The margins of safety associated with this change are defined in the fuel and core related analyses, and in each of the transient and accident analyses affected by the reduced RCS flow. An evaluation of the affected analyses confirmed that the established acceptance criteria for specified acceptable fuel design limits, primary and secondary system over-pressurization, and the acceptance criteria for the emergency core cooling systems have been satisfied by this license amendment request. The evaluation concludes that, when considering the proposed Limiting Conditions for Operation for the minimum RCS total flow rate, all applicable acceptance criteria limits are met. The margins of safety associated with the transient and accident analyses affected by this change will not be significantly reduced. Therefore, this change does *not* involve a significant reduction in the margin of safety.

Therefore, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has determined that the requested change does *not* involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: John Hannon.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: December 10, 1997.

Description of amendment request: To clarify certain sections of the Technical Specifications (TSs) and Bases which have been demonstrated to be unclear or conflicting. Administrative changes include TS 2.3 Bases, Table 3.1.1.G.1, Table 3.1.1.M.2, Section 4.3.C, and Section 6.1.1. Technical changes include Table 3.3.3, note b, Section 3.4 Bases, Section 3.8 Bases and Section 4.5 Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

With respect to the administrative changes, they are typical of the example I.c.2.e.i in 51 FR 7744 and therefore, they do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in the margin of safety; in that they are purely administrative changes to achieve consistency or correct an error in the TS.

With respect to technical change, Table 3.1.1, note b:

1. Involve a siginificant increase in the probability or consequences of an accident previously evaluated; (or)

The proposed change would restore the original value of less than 600 psig. This lower value would not increase the probability of any accident as it provides a more conservative level below which protection can be bypassed.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; (or)

The proposed change would restore the original value of less than 600 psig. The setpoint of a bypass cannot create a different kind of accident, it can only affect the severity.

3. Involve a significant reduction in a margin of safety; As the requested change lowers the bypass setpoint, the margin of safety will be increased.

With respect to Section 3.4 Bases:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; (or)

The proposed change to the Bases removes a possible area of confusion from the [TS], and updates the Bases to reflect the results of newer, approved methodologies. Therefore, no change to any probability calculation occurs.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; (or)

The proposed change addresses an existing accident (Small Break LOCA) and removes outdated and possibly confusing information. Therefore, no new or different kind of accident is created.

3. Involve a significant reduction in a margin of safety;

The proposed change does not change the way the plant is operated or the way design Bases are maintained. It only removes an outdated and possibly confusing paragraph from the Bases, therefore, no margin of safety is affected.

With respect to Section 3.8 Bases:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; (or)

The Isolation Condenser Radiation Monitors had no impact o[n] the operation of any plant system. Additionally, the monitors were not relied upon for any post accident evaluations. They were removed from the plant using the 10 CFR 50.59 process. As this request updates the [TS] Bases to reflect the plant as currently configured, no impact on the probability or consequences of any previously evaluated accident is possible.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; (or)

The Isolation Condenser Radiation Monitors had no impact o[n] the operation of any plant system. Additionally, the monitors were not relied upon for any post accident evaluations. They were removed from the plant using the 10 CFR 50.59 process. As this request updates the [TS] Bases to reflect the plant as currently configured, no new or different kind of accident is created.

3. Involve a significant reduction in the margin of safety;

The Isolation Condenser Radiation Monitors had no impact o[n] the operation of any plant system. Additionally, the monitors were not relied upon for any post accident evaluations. They were removed from the plant using the 10 CFR 50.59 process. As this request updates the [TS] Bases to reflect the plant as currently configured, no reduction in any margin of safety can occur.

With respect to Section 4.5 Bases:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; (or)

No change to any procedure, nor any modification to any system is requested. The same surveillance will be performed at the same frequency. Only the brand of chemical used to perform the surveillance will be affected. As an equivalent chemical will be selected, no increase in the probability or consequences of an accident previously evaluated can be created.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; (or)

No change to any procedure, nor any modification to any system is requested. The same surveillance will be performed at the same frequency. Only the brand of chemical used to perform the surveillance will be affected. As an equivalent chemical will be selected, no new or different kind of accident previously evaluated can be created.

3. Involve a significant reduction in the margin of safety;

No change to any procedure, nor any modification to any system is requested. The same surveillance will be performed at the same frequency. Only the brand of chemical used to perform the surveillance will be affected. As an equivalent chemical will be selected, no margin of safety can be affected.

The staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Ronald B. Eaton.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment requests: October 3, 1997.

Description of amendment requests: The proposed amendment would revise the Operating License to allow the start of core offload as soon as 60 hours after shutdown instead of the 120 hours currently specified.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Operating License Amendment will not significantly increase the probability or consequences of any previously evaluated accidents.

The proposed change will allow initiation of core offload earlier after shutdown than is currently allowed. Thermal-hydraulic analysis shows that maximum bulk SFP, local water, and fuel clad temperatures will remain within acceptable limits and, in fact, do not exceed those previously reviewed and approved for Amendment 195.

Thermal-hydraulic analysis shows the minimum time to action is calculated at 4.5 hours versus 5.5 hours previously reviewed and approved for Amendment 195. In the event of a loss of forced cooling with cask pit isolation gate failure event, the DAEC will use Emergency Service Water (ESW), a Seismic Category I system, to provide makeup to the SFP. It is estimated to take no more than 2 hours to provide ESW makeup to the SFP, therefore the minimum time to action of 4.5 hours is sufficient time to prevent uncovering the fuel in the SFP.

The DAEC design basis refueling accident, as discussed in Section 15.10.2 of the Updated Final Safety Analysis Report, assumes a twenty-four hour decay time before core offload begins. The proposed change does not adversely affect that accident analysis.

Therefore, the proposed change will not result in an increase in probability or consequences of an accident previously evaluated.

2. The proposed changes will not create a new or different kind of accident from those previously evaluated.

Thermal-hydraulic analysis shows that the proposed change will not result in maximum bulk SFP, local water, or fuel clad temperatures which would initiate bulk pool boiling, challenge fuel rod integrity or jeopardize the structural integrity of the pool.

As stated above, the minimum time to action of 4.5 hours allows sufficient time to provide ESW makeup to the SFP. Therefore, this change does not create the possibility of a new or different type of accident.

3. The proposed change will not result in a significant reduction in any margin of safety.

This change will not result in maximum bulk SFP, local water, and fuel clad temperatures in excess of those previously evaluated and accepted per Amendment 195. The thermal-hydraulic analysis for Case C does show a reduction in the minimum time to action by one hour. However, 4.5 hours does provide sufficient time to provide ESW makeup to the SFP as this task is estimated to require no more than 2 hours. Furthermore, this change does not result in any change to the Technical Specifications. Therefore, this change does not result in a significant reduction in a margin of safety.

Based upon the above, we have determined that the proposed amendment will not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: December 15, 1997.

Description of amendment request: The proposed amendment would revise Technical Specifications (TSs) 2.1 and 3/4.4.1 to change the safety limit minimum critical power ratio (MCPR) for the upcoming fuel operating cycle (Cycle 7) from 1.07 to 1.09 for two recirculation loop operation and from 1.08 to 1.10 for single loop operation. An obsolete footnote in TS 3/4.4.1, which states that ''the MCPR Safety Limit of 1.07 will be used through the first operating cycle,'' would be deleted. The associated Bases 2.1 would be changed to (1) reflect the new MCPR values, (2) delete certain details (including Bases Table B2.1.2–1, ''Uncertainties Used in the Determination of the Fuel Cladding Safety Limit,'' and Bases Table B2.1.2–2, ''Nominal Values of Parameters Used in the Statistical Analysis of Fuel Cladding Integrity Safety Limit,'') and (3) substitute for the deleted detail a reference to General Electric Standard Application for Reactor Fuel (GESTAR II), NEDE–24011–P–A, and to the cycle-specific analysis. The TS Index would be changed to reflect deletion of Bases Tables B2.1.2–1 and B2.1.2–2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The derivation of the revised Safety Limit MCPR was performed using the NRC approved methodology in GESTAR II. The Safety Limit MCPR is a TS numerical value that cannot initiate an event. Maintaining compliance with this

limit will assure that 99.9 percent of the fuel rods will not experience transition boiling during transient events. The deletion of the footnote that is no longer necessary and the revision to the Bases information are administrative only. The proposed change does not modify any of the accident initiators described in the USAR [Updated Safety Analysis Report]. No equipment malfunctions or procedural errors are created as a result of this change, therefore, no accidents are affected by it. The change does not adversely impact the integrity of the fuel cladding, which is the first barrier to the release of radioactivity to the environment. The change does not affect the operation of any systems necessary to mitigate the radiological consequences of an accident or to safely shutdown the plant. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Safety Limit MCPR is a TS numerical value designed to prevent fuel damage from transition boiling. It cannot create the possibility of a transient or accident. The deletion of the footnote that is no longer necessary and the revision to the Bases information are administrative only. The proposed change does not directly impact the operation of any systems or equipment important to safety. The analyses show that all fuel licensing acceptance criteria are met. The fuel cladding, reactor vessel, and reactor coolant system integrity will be maintained. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The Safety Limit MCPR calculation was performed using the NRC approved methodology in GESTAR II. Analyses of limiting USAR transients establish Operating Limit MCPR values that ensure that the Safety Limit MCPR is not violated. The revised cycle specific Safety Limit MCPR preserves the existing margin of safety and will continue to assure that 99.9 percent of the fuel rods will not experience transition boiling during transient events. The deletion of the footnote that is no longer necessary and the revision to the Bases information are administrative only. Thus, the margin of safety to fuel cladding failure due to insufficient cladding heat transfer during transient events is not reduced. Therefore, this change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: S. Singh Bajwa.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: November 13, 1997.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to (1) modify the low temperature overpressure protection (LTOP) requirements; (2) modify the reactor coolant system (RCS) heatup and cooldown limits; and (3) make changes to correct various items based on the licensee's review of the current TSs. The supporting TS Bases sections would also be changed to reflect the proposed TS changes.

The affected TSs are: TS 3.1.2.1, ''Flow Paths—Shutdown;'' TS 3.1.2.2, ''Flow Paths—Operating;'' TS 3.1.2.3, ''Charging Pump—Shutdown;'' TS 3.1.2.4, ''Charging Pumps—Operating;'' TS 3.1.2.5, ''Boric Acid Pumps—Shutdown;'' TS 3.1.2.6, ''Boric Acid Pumps—Operating;'' TS 3.1.2.8, ''Borated Water Sources—Operating;'' TS 3.4.1.3, ''Coolant Loops and Coolant Circulation—Shutdown;'' TS 3.4.3, ''Relief Valves;'' TS 3.4.9.1, ''Reactor Coolant System;'' TS 3.4.9.2, ''Pressurizer;'' TS 3.4.9.3, ''Overpressure Protection Systems;'' TS 3.5.3, ''ECCS Subsystems—T_{avg} < 300 °F;'' and TS 3.10.3, ''Pressure/Temperature Limitation—Reactor Criticality.''

The November 13, 1997, submittal provides specific details related to each of the proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Each of the proposed changes have been grouped together, as appropriate, to address this criteria.

HPSI Pump Not Required To Be Operable In Modes 5 and 6. The proposed change to only require one charging pump to be operable in Modes 5 and 6, instead of the current requirement for one charging pump and one high pressure safety injection pump (HPSI) pump to be operable, will result in sufficient, but not excessive, Reactor Coolant System (RCS) makeup capability. When the plant is in Mode 5 or 6 there are two major factors to consider with respect to the number of RCS makeup pumps required to be operable. If too many RCS makeup pumps are required, an inadvertent start of these pumps can result in a mass addition transient beyond the capacity of the Low Temperature Overpressure Protection (LTOP) System. This may result in an RCS pressure increase that exceeds the 10CFR50 Appendix G pressure/temperature limits. Compliance with the mass input and venting restrictions contained in the proposed Technical Specification 3.4.9.3 will ensure the Appendix G limits are not exceeded.

The minimum number of RCS makeup pumps required to be operable in Modes 5 and 6 ensures sufficient makeup capability is available for RCS inventory control and RCS boration requirements. RCS inventory control is necessary in Modes 5 and 6 to ensure sufficient water is available for core cooling. A rapid loss of RCS inventory due to catastrophic pipe failures is unlikely in Modes 5 and 6 due to the reduced RCS pressure and temperature. An inventory loss is more likely to occur due to small system component failures or during infrequently performed evolutions, such as reduced inventory operation. This type of inventory loss will occur at a slower rate. Plant operators will have time to perform the necessary actions to mitigate the event. Reliance on automatic operation of the Emergency Core Cooling System is not necessary and Technical Specifications do not require automatic actuation by the Engineered Safety Features Actuation System to be operable in Mode 4 or below. Operator action is sufficient to mitigate a loss of RCS inventory in Mode 4 or below, provided sufficient

RCS makeup capability is available. Plant procedures and shutdown risk management will provide adequate administrative control to ensure sufficient RCS makeup capability is available, or that contingency plans have been developed.

The minimum number of RCS makeup pumps required to be operable in Modes 5 and 6 ensures sufficient makeup capability is available for RCS boration requirements. The RCS is required to be borated to a sufficient boron concentration to ensure the Technical Specification Shutdown Margin (SDM) requirements are met. The appropriate SDM requirements must be met before entry is allowed into Mode 5 or 6. RCS boron concentration is increased to establish the required SDM. This is normally accomplished by adding borated water to the RCS during plant cooldown to compensate for the contraction of the RCS inventory. The proposed change will restrict the number of pumps available, which will increase the time required to adequately borate the RCS. However, the change will not affect the ability to add boric acid to the RCS.

Even though the proposed change will remove the Technical Specification requirement for an operable HPSI pump in Modes 5 and 6, sufficient RCS makeup capability will be available to meet RCS boration and inventory requirements. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

LTOP Mass Input and Vent Size Requirements. The proposed changes to the RCS venting requirements currently contained in Technical Specification 3.4.9.3, and the RCS makeup requirements that will be relocated to Technical Specification 3.4.9.3 are necessary to be consistent with the new LTOP analysis. These changes will ensure the 10CFR50 Appendix G limits are not exceeded.

The proposed changes to the mass input restrictions will still allow two charging pumps and one HPSI pump to be capable of injecting into the RCS when the RCS is operating in Mode 4 [less than or equal to] 275 °F. This combination will be allowed in Mode 5 until RCS temperature is [less than or equal to] 190 °F. When RCS cold leg temperature is at or below 190 °F only one charging pump will be allowed to be capable of injecting into the RCS. This restriction will continue to apply until the RCS is vented through a passive vent [greater than or equal to] 2.2 in^2. If this passive vent size is established, two charging pumps and one HPSI pump are allowed to be capable of injecting.

The passive vent required if one or two power operated relief valves (PORVs) are inoperable (Technical Specification Action Statements (TSASs) a, b, and c) will be changed from 2.8 in^2 or 1.4 in^2 to 2.2 in^2. A passive vent of 1.4 in^2 is equivalent to the vent area of one PORV. Since the LTOP analysis assumes 2 operable PORVs initially, and then one PORV fails to actuate, RCS overpressure protection will be ensured by a passive vent of 1.4 in^2. However, a passive vent is established by removing a pressurizer PORV or the pressurizer manway, the normal vent path. The value of 2.2 in^2 is the minimum size of vent that will ensure RCS pressure remains [less than or equal to] 300 psia, which is more conservative than the Appendix G limits. This vent size will also ensure that RCS pressure does not exceed the SDC System design pressure. In addition, this is the size of vent that will satisfy Technical Specification 3.4.9.1 to allow a 50 °F/hr cooldown rate below 190 °F.

TSAS d will be added to address excessive pumping capacity. The required completion time of ''immediate'' reflects the importance of this restriction, and is consistent with current Technical Specification requirements (Technical Specification 3.1.2.3 TSAS b and Technical Specification 3.5.3 TSAS c) for this situation.

These proposed changes are all more restrictive than the previous requirements, except for allowing 2 charging pumps and one HPSI in Mode 5 between 200 °F and 190 °F, and requiring a vent of 2.2 in^2 instead of 2.8 in^2 when two PORVs are inoperable. However, the proposed mass input and venting restrictions are consistent with the new LTOP analysis. This analysis has demonstrated that with the proposed restrictions the required LTOP system will provide adequate protection for RCS overpressurization transients. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Increase in Technical Specification Applicability. The applicability of Technical Specification 3.4.9.3 will be expanded to include all of Mode 5, and Mode 6 until the reactor vessel head is removed. The current applicability is limited in Modes 5 and 6 to when the RCS is not vented through a vent [greater than or equal to] 2.8 in^2. Expanding the applicability will ensure an LTOP System is in place, except when RCS pressurization is not possible (reactor vessel head removed). This will ensure the 10 CFR 50 Appendix G limits are not exceeded.

The applicability of Technical Specification 3.4.9.1 will be expanded. The current applicability is Modes 1 through 5. However, concern for non-ductile failure of the reactor vessel and flange applies at all times, not just in Modes 1 through 5. Therefore, the applicability will be expanded. Increasing the applicability of Technical Specification 3.4.9.1 will place additional restrictions on the plant. However, these additional restrictions will ensure the integrity of the RCS, in particular the reactor pressure vessel, is maintained. Therefore, the RCS will continue to function as designed.

These more restrictive changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

LTOP PORV Setpoint Change. The required PORV actuation setpoint will be reduced from [less than or equal to] 450 psig to [less than or equal to] 415 psia (400 psig). The 50 psi setpoint reduction (pressure units have also been changed to agree with control room indication) will cause the PORVs to actuate earlier during an LTOP transient to prevent an RCS overpressurization. It is a more restrictive change that is consistent with the new LTOP analysis.

PORV actuation at the proposed setpoint, in combination with the proposed mass input restrictions, will ensure the 10 CFR 50 Appendix G limits are not exceeded. Therefore, the proposed change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

RCP Start Criteria. The requirements to start the first reactor coolant pump (RCP), when RCS temperature is [less than or equal to] 275 °F, will be modified. The new criteria will ensure that starting an RCP will not result in an energy addition transient that could exceed the capability of the steam bubble in the pressurizer to mitigate the event. (No credit for PORV actuation during this energy addition transient was assumed in the new LTOP analysis.) This will ensure that the 10 CFR 50 Appendix G limits are not exceeded.

The proposed RCP restrictions are consistent with the new LTOP analysis. This analysis has demonstrated that with the proposed restrictions the pressurizer will provide adequate protection for RCS overpressurization transients. Therefore, the proposed changes will not result in a significant increase in the probability or

consequences of an accident previously evaluated.

Boron Dilution Analysis. The analysis of the boron dilution event contained in the Millstone Unit No. 2 FSAR [Final Safety Analysis Report] Section 14.4.6 assumes that dilution flow rate is limited to 88 gpm in Modes 4, 5, and 6. Since the charging pumps are the assumed dilution source, no more than two charging pumps can be injecting for this assumption to remain valid. This results in a Technical Specification requirement that no more than two charging pumps can be operable when the RCS is in Mode 4 or below (< 300 °F). This requirement will be modified by replacing the word ''operable'' with ''capable of injecting into the RCS.'' This more accurately addresses the boron dilution analysis restriction of limiting the dilution flow to two charging pumps since an inoperable pump can still inject into the RCS. This change is consistent with the boron dilution accident analysis. The boron dilution analysis further assumes that if this dilution flow rate restriction is met, there will be sufficient time for the operators to recognize and terminate the dilution before a complete loss of shutdown margin occurs. Operator action to restore shutdown margin by boration is not assumed.

The proposed changes will not affect the current Technical Specification restriction that no more than two charging pumps can be capable of injecting into the RCS (operable) when the RCS is below 300 °F. However, no corresponding action statement currently exists in Technical Specification 3.1.2.4 to provide guidance if this requirement is not met. The addition of the proposed action statement to Technical Specification 3.1.2.4 will require immediate action to correct this situation. This is consistent with other current Technical Specification requirements (Technical Specification 3.1.2.3 TSAS b and Technical Specification 3.5.3 TSAS c) that address excessive RCS makeup capacity. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

RCS Pressure/Temperature and Heatup/Cooldown Limit Changes. The proposed changes to the heatup and cooldown rates are a result of the new analysis of the RCS pressure/temperature and heatup/cooldown limits. These changes will provide flexibility during plant heatup and cooldown, and especially during equipment manipulations such as securing RCPs, swapping shutdown cooling (SDC) heat exchangers, and initiating SDC.

Figure 3.4.2 will be replaced by two curves, Figures 3.4–2a and 3.4–2b. Each figure will contain the minimum flange boltup temperature and the minimum temperature for criticality. The heatup figure (Figure 3.4–2a) will also contain the inservice leak and hydrostatic testing limits. The temperature change limits will be contained in the new Table 3.4–2, instead of in the LCO [limiting condition for operation]. The new limits will use cold leg temperature instead of average temperature to determine when to change rates. There should be little difference between these two temperatures, and cold leg indication is directly available to the control room operators.

The proposed curves and rates are based on indicated cold leg temperature. This parameter, which is the best available indication of reactor vessel downcomer temperature, will normally be monitored by using either RCS cold leg temperature indication or SDC return temperature. Plant conditions will determine which one is the appropriate indication to use. Actual RCS cold leg temperature will be used if any RCP is operating or natural circulation is occurring. Otherwise, SDC return temperature will be used.

RCP restrictions, assumed in the development of the heatup and cooldown curves, will be added to the curves. Most of the RCP restrictions already exist either in other Technical Specifications or in plant procedures. Two new RCP restrictions will be added to Technical Specifications. The restriction of no more than three RCPs until RCS temperature is above 500 °F already exists in plant procedures, but it will be added to Technical Specifications. The restriction of no more than two RCPs when RCS temperature is below 200 °F already exists in Technical Specifications (3.4.1.4). The RCP restriction of no RCPs below 150 °F during plant cooldown will be added to Technical Specifications. This restriction will have no effect on plant operations because RCPs will normally be secured when cooling down below 150 °F to minimize heat input.

The inservice leak and hydrostatic testing temperature change limit currently specified in Technical Specification 3.4.9.1.c will be relocated to Table 3.4–2. The wording will be modified (clarification only) to specify the limit also applies for one hour prior to the start of inservice leak and hydrostatic testing. This is necessary since the development of the inservice leak and hydrostatic testing test curve assumes isothermal conditions. The wording will also be modified to specify the restrictions apply during testing above the heatup curve instead of above system design pressure. This type of testing is not performed above system design pressure.

The 50 °F/hr cooldown rate and curve will normally be used when the RCS is <190 °F and an RCS vent of >2.2 in^2 has been established. This curve and rate may also be used when RCS cold leg temperature is below 230 °F to demonstrate compliance with Appendix G limits when unanticipated temperature excursions occur.

The current action statements of Technical Specification 3.4.9.1 will be separated by Mode and will be modified. Similar changes will be made to the action statements of Technical Specification 3.4.9.2. A time limit of 72 hours will be placed on the performance of the engineering evaluation. If this evaluation is not performed in this time period, or the evaluation does not allow continued operation, the plant will be required to enter Mode 5 ([less than or equal to] 200 °F), instead of the current requirement to be <200 °F. This slight relaxation will have no significant impact on plant operations because plant temperature is not normally maintained at the mode change temperature limit.

The required RCS pressure will be reduced from 500 psia to 300 psia. This is closer to the actual plant conditions established in Mode 5. The required RCS pressure will be reduced from 500 psig to 500 psia for the Pressurizer, Technical Specification 3.4.9.2. The change in units is consistent with plant instrumentation. Establishing a lower RCS pressure is more conservative because it will result in less pressure stress on either the reactor vessel or the pressurizer.

In other than Modes 1 through 4, immediate action will be required for limit restoration. Violation of these limits is typically more severe when the RCS is cold (<200 °F), therefore an immediate response is appropriate. A time limit of prior to entering Mode 4 will be placed on the performance of the engineering evaluation. This will prevent plant startup until the evaluation has determined that the RCS is acceptable for continued operation.

The frequency of surveillance requirements 4.4.9.1.c, 4.4.9.2, 4.10.3.1 will be increased from once per hour to once per 30 minutes. This more restrictive change will provide the plant operators with earlier indication that a limit may be exceeded, so that action can be taken to prevent exceeding the limit. The proposed changes to the RCS

pressure/temperature limits and temperature change rates are based on the new analysis. This analysis uses standard approved methods that ensure the margins of safety required by 10 CFR 50, Appendix G are maintained. The other changes discussed are more restrictive enhancements to Technical Specification requirements. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

Other Changes. The scope of the action statement for Technical Specification 3.1.2.6 will be expanded to cover all three flowpaths identified in Technical Specification 3.1.2.2.a. The intent of the current wording is to address all flowpaths. These minor wording changes will meet this intent.

Clarification will be added to SR 4.1.2.8.d to be consistent with SR 4.1.2.7.c. The clarification will allow the boric acid storage tank (BAST) temperature to be verified by checking the ambient air temperature.

A note will be added to Technical Specification 3.4.3 TSAS a to allow the block valve(s) to be cycled during plant cooldown when the block valve(s) is(are) closed due to inoperable PORV(s). The footnote will allow the PORV block valve(s) to be cycled during a plant cooldown to prevent thermal binding. This will ensure the associated block valve(s) can be opened to allow the PORV(s) which is(are) inoperable, can be manually cycled if necessary. Therefore, the PORV block valve(s) will be able to function as designed.

The wording of Technical Specification 3.4.3 Action Statement d will be revised to state what action should be performed, and to remove specific details on how to perform the required action. This does not change the intent of the action statement. Therefore, the pressurizer PORVs will continue to function as designed.

An action statement will be added to Technical Specification 3.4.9.3 to provide an exception to Technical Specification 3.0.4 requirements. This is necessary to allow a plant cooldown to MODE 5 if one or both PORVs are inoperable. MODE 5 conditions may be necessary to repair the PORV(s).

A footnote will be added to Technical Specification 3.5.3 to allow entry into Mode 4 without an operable high pressure safety injection pump. This new footnote will allow the plant to enter Mode 4 where this specification is applicable without any operable HPSI pumps. However, this condition will only be allowed for a very short time period, one hour. The proposed change to Technical Specification 3.4.9.3 will allow a HPSI pump to be operable above 190 °F. However, the 10 °F range before Mode 4 is reached may not allow sufficient time to ensure a HPSI pump is operable. Adding this note will provide the operating crew sufficient time to make an orderly transition into Mode 4. This condition will only be allowed for one hour, which is the same time allowed by the first part of TSAS a for an inoperable HPSI pump.

The LTOP requirements currently contained in Technical Specifications 3.1.2.3 and 3.5.3 will be relocated to the LTOP Technical Specification 3.4.9.3. Relocating requirements within Technical Specifications will not change the technical content of the requirement.

Various redundant or outdated Technical Specification requirements will be eliminated and references will be adjusted to reflect the proposed changes. Removal of redundant or outdated requirements from Technical Specifications and adjustments to references to other requirements will not impact any technical requirements.

Minor wording changes have been made to many of the Technical Specifications contained in this license amendment request. These changes do not change any technical aspect of the Technical Specification affected. They are editorial changes only.

The proposed changes do not alter the way any structure, system, or component functions. There will be no effect on equipment important to safety. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes have no effect on any of the design basis accidents previously evaluated. Therefore, the license amendment request does not impact the probability of an accident previously evaluated nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes will modify the LTOP requirements, RCS pressure/temperature limits, and the RCS heatup and cooldown limits. The majority of the proposed changes are being made as a result of the new pressure/temperature and LTOP analyses performed. The new pressure/temperature curves and heatup and cooldown rates were developed in accordance with the requirements and methods described in 10 CFR 50 Appendix G and are consistent with the criteria contained in the Standard Review Plan Section 5.3.2. The new LTOP mass input and RCP starting restrictions and LTOP PORV setpoints are consistent with the criteria contained in the Standard Review Plan Section 5.2.2. Additional changes have been proposed to correct various items identified during the review of the Millstone Unit No. 2 Technical Specifications. The proposed changes do not change the requirements to maintain RCS pressure and temperature within the requirements defined in Technical Specifications. This will ensure the integrity of the reactor vessel is maintained during all aspects of plant operation. Therefore, there is no significant effect on the probability or consequences of any accident previously evaluated and no significant impact on offsite doses associated with previously evaluated accidents. This License Amendment Request does not result in a reduction of the margin of safety as defined in the Bases for the Technical Specifications addressed by the proposed changes.

The NRC has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (March 6, 1986, 51 FR 7751) of amendments that are considered not likely to involve an SHC [significant hazards consideration]. The changes proposed herein to correct terminology, numbering, references, and relocating requirements within Technical Specifications are enveloped by example (i), a purely administrative change to Technical Specifications. The more restrictive changes proposed herein that are based on the new analyses performed and the more restrictive enhancements are enveloped by example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in Technical Specifications. All other changes proposed herein are not enveloped by a specific example.

As described above, this License Amendment Request does not impact the probability of an accident previously evaluated, does not involve a significant

increase in the consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not result in a significant reduction in a margin of safety. Therefore, NNECO [Northeast Nuclear Energy Company] has concluded that the proposed changes do not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut.

Date of amendment request: December 8, 1997.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to resolve several compliance issues. The proposed changes would (1) correct the wording and the formula in TS Definition 1.18 ''Azimuthal Power Tilt—T_q;'' (2) correct the wording in TS 4.1.1.1.2 ''Reactivity Control Systems Shutdown Margin—T_{avg} [less than or equal to] 200 °F;'' (3) correct the mode applicability from Mode 3 to Modes 1 and 2 in TS 3.1.3.4 ''Reactivity Control Systems—Rod Drop Time;'' (4) correct the terminology used to refer to the power dependent insertion limit alarm in TS 4.1.3.6 ''Reactivity Control Systems—Regulating CEA [Control Element Assembly] Insertion Limits;'' (5) add a footnote for Mode 4 operability requirement clarification to TS 3.5.3 ''Emergency Core Cooling Systems, ECCS Subsystems—T_{avg} <300 °F;'' (6) correct the wording, frequency, and reference number for the surveillance requirements in TS 3.6.3.2 ''Containment Systems Containment Ventilation System;'' (7) correct the nomenclature used for the A.C. busses in TSs 3.8.2.1 and 3.8.2.1A ''Onsite Power Distribution Systems A.C. Distribution—Operating;'' (8) correct TS Bases by modifing the applicable sections to reflect the proposed changes; (9) delete the word ''original'' from the statement ''original design provision'' in Design Features Section—TSs 5.1.3 ''Flood Control,'' 5.2.3 ''Penetrations,'' 5.3.2 ''Control Element Assemblies,'' and 5.7.1 ''Seismic Classification;'' and (10) delete Design Features Section—TS 5.9 ''Shoreline Protection.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change in the wording and associated formula of Technical Specifications Definition 1.18 will ensure the calculated value of Azimuthal Power Tilt (T_q) used to verify compliance with Technical Specification 3.2.4 is associated with the quadrant of highest power production with respect to the average of the four quadrants, instead of the quadrant that deviates the most (increases or decreases) from the average of the four quadrants. This is consistent with the method by which power distribution factors are calculated and applied in the accident analysis and how the Core Power Distribution Monitoring System calculates T_q. The proposed change will not alter the way T_q is calculated by the Core Power Distribution Monitoring System, nor will it alter any of the power distribution assumptions used in the accident analysis. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

Surveillance Requirement (SR) 4.1.1.1.2 requires that the difference between predicted and measured core reactivity values be maintained within [plus or minus] 1.0% [delta]k/k, and that an adjustment be made between the measured and predicted core reactivity conditions prior to exceeding 60 EFPD [effective full power days] following a refueling outage. The proposed change will not affect the requirement to maintain predicted and measured core reactivity values within [plus or minus] 1.0% [delta]k/k. However, it will no longer be necessary to make an adjustment prior to exceeding 60 EFPD provided the [plus or minus] 1.0% [delta]k/k requirement is met. Historically, this difference has been small at Millstone Unit No. 2 (less than approximately [plus or minus] 1.0% [delta]k/k) and an adjustment has not been necessary to ensure the [plus or minus] 1.0% [delta]k/k requirement is met. The fact that no adjustment (normalization) will be necessary when reactivity differences are small will not affect the ability to identify reactivity anomalies. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification 3.1.3.4 will change the applicability from Mode 3 to Modes 1 and 2. This is necessary to allow performance of SR 4.1.3.4 at the conditions in the accident analysis, and also specified in the [Limiting] Condition [for] Operation (LCO). CEA [Control Element Assembly] drop time is important for the mitigation of accidents that are initiated while the reactor is critical. To ensure the CEA drop time assumed in the accident analysis is valid, it is necessary to verify CEA drop time with plant conditions consistent with those expected when the reactor is critical. This proposed change will allow this verification, and thereby ensure the CEAs will function as designed to mitigate design basis accidents. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to SR 4.1.3.6 will modify the terminology used to refer to the power dependent insertion limit (PDIL) alarm to agree with plant terminology. This change will not alter equipment operation or any technical aspect of the SR. The information added to the Bases will specify what equipment provides the PDIL alarm. These changes will eliminate any confusion with alarm terminology. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

Technical Specification 3.5.3 requires an operable flowpath capable of taking a suction from the refueling water storage tank (RWST) on a safety injection actuation signal (SIAS), and automatically transferring suction to the containment sump on a sump recirculation actuation signal (SRAS) in Mode 4. In Mode 4, the automatic SIAS generated by low pressurizer pressure and high containment pressure, and the automatic SRAS generated by low RWST level, are not required to be operable. Automatic actuation in Mode 4 is not required because adequate time is available for plant operators to evaluate plant conditions and respond by manually operating engineered safety

features components. Since the manual actuation (trip pushbuttons) portions of the safety injection and sump recirculation actuation signal generation are required to be operable in Mode 4, credit can be taken for remote manual operation to generate the SIAS and SRAS which will position all components to the required accident position. The proposed change to Technical Specification 3.5.3 will add a footnote (***) to explain how these requirements are met in Mode 4. This change will not reduce operability or surveillance requirements for the Emergency Core Cooling System (ECCS) subsystem required to be operable by Technical Specification 3.5.3. The ECCS will continue to function as designed to mitigate design basis accidents. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification 3.6.3.2 will revise the wording of the LCO and SR by changing ''locked closed'' to ''sealed closed,'' and deleting the requirement to be electrically deactivated. The action statement will also be revised to reflect these proposed changes. These changes will not affect the requirement for the containment purge valves to be closed in Modes 1 through 4. Therefore, the proposed changes will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change to SR 4.6.1.7 will change the surveillance frequency from ''prior to each reactor startup'' to ''at least once per 31 days.'' This change, which will require the surveillance to be performed more often (assuming a normal plant startup sequence) will provide additional assurance that the containment purge valves are sealed closed. In addition, this change will ensure consistency between the SR and the applicability of this specification, and also with the requirements to verify containment integrity in accordance with Technical Specification 3.6.1.1. Therefore, the proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

The change in numbering of SR 4.6.1.7 to SR 4.6.3.2 is an administrative change only. It will not affect any technical aspect of the SR. Therefore, the proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specifications 3.8.2.1 and 3.8.2.1A will modify the nomenclature used to refer to the vital A.C. buses to be consistent with the terminology used by Operations Department personnel and the nomenclature contained in their procedures. These changes will not alter equipment operation or any technical aspects of these specifications. These proposed changes are administrative changes only. The A.C. buses will continue to function as designed to mitigate design basis accidents. Therefore, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specifications 5.1.3, 5.2.3, 5.3.2, and 5.7.1 will remove the word ''original.'' Reference to original design is not appropriate since these items can be changed by approved processes. However, these changes will still require the items addressed by these specifications to be designed and maintained in accordance with the Final Safety Analysis Report (FSAR). The proposed changes have no affect on the current approved plant design. Therefore, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

Technical Specification 5.9 will be deleted. The required provisions for shoreline protection have been completed, and this Technical Specification is no longer necessary. The removal of this outdated specification will not impact any current requirements. Therefore, this change will not significantly increase the probability or consequences of an accident previously evaluated.

The proposed changes do not alter how any structure, system, or component functions. There will be no effect on equipment important to safety. The proposed changes have no effect on any of the design basis accidents previously evaluated. Therefore, this License Amendment Request does not impact the probability of an accident previously evaluated, nor does it involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change to the definition of T_q will make the Technical Specification definition consistent with the approved calculation methodology. This will ensure the core power distribution is consistent with accident analysis assumptions. The proposed change to the wording of SR 4.1.1.1.2 will not affect the acceptance criteria of [plus or minus] 1.0% [delta]k/k, which ensures the accident analysis accurately reflects core reactivity conditions. The proposed change in the applicability of Technical Specification 3.1.3.4 will allow verification of CEA drop time at plant conditions assumed in the accident analysis. This will ensure the CEAs will function as assumed. The proposed change to SR 4.1.3.6 will modify the terminology used to refer to the PDIL alarm to agree with plant terminology. This change will not alter equipment operation or any technical aspect of the SR. Adding the footnote to Technical Specification 3.5.3 will not change any technical aspects of this specification. One ECCS subsystem will be available for accident mitigation. The proposed change in wording of Technical Specification 3.6.3.2 will not affect the requirement for the containment purge valves to be closed in Modes 1 through 4. The proposed change in the frequency of performance for SR 4.6.1.7 will provide greater assurance that the containment purge valves are closed to prevent the potential release of radioactive material through these penetrations during accident conditions. The proposed changes in terminology in Technical Specifications 3.8.2.1 and 3.8.2.1A will not change any technical requirements for the equipment covered. The equipment will still function as assumed. Modifying the Bases of Technical Specifications are necessary to be consistent with the proposed changes will not change any requirements of these specifications. The modification to Technical Specifications 5.1.3, 5.2.3, 5.3.2, and 5.7.1 will not affect the requirement to maintain these items in accordance with requirements contained in the FSAR. Deleting Technical Specification 5.9 will not affect any requirements since the requirements contained in this specification have already been completed.

The proposed changes do not affect any of the assumptions used in the accident analysis, nor do they affect any operability requirements for equipment

important to plant safety. Therefore, these proposed changes will not result in a significant reduction in the margin of safety as defined in the Bases for Technical Specifications covered in this License Amendment Request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: December 12, 1997.

Description of amendment request: The proposed amendment would revise the facility Technical Specifications (TSs) regarding normal working hours of plant staff to provide for shift duration of 12 hours. It would also revise the TSs to maintain existing ''once per shift'' surveillance requirements at 8-hour intervals.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the proposed licensing amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

Establishing operating personnel work hours at ''a normal 8 to 12 hour day, nominal 40-hour week'' allows normal plant operations to be managed more effectively and does not adversely affect performance of operating personnel. Overtime remains controlled by site administrative procedures in accordance with NRC Policy Statement on working hours (Generic Letter 82–12). If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. No physical plant modifications are involved and none of the precursors of previously evaluated accidents are affected. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Editorial changes clarify sections 6.2.2.6.b. and 6.2.2.6.c. without changing the intent or meaning. [...] Changes to sections 4.5.F.3., 4.5.F.4., 4.5 Bases, and 4.7.A.7.a. do not change the intent or meaning of the Technical Specifications, do not change operating procedures, and are consistent with surveillance requirements. [Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.]

Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Establishing operating personnel work hours at ''a normal 8 to 12 hour day, nominal 40-hour week'' allows normal plant operation to be managed more effectively and does not adversely affect performance of operating personnel. If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. Overtime remains controlled by site administrative procedures in accordance with the NRC Policy Statement on working hours (Generic Letter 82–12). No physical modification of the plant is involved. As such, the change does not introduce any new failure modes or conditions that may create a new or different accident. Therefore, plant operation in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

Editorial changes clarify sections 6.2.2.6.b. and 6.2.2.6.c. without changing the intent or meaning. [* * *] Changes to sections 4.5.F.3., 4.5.F.4., 4.5 BASES, and 4.7.A.7.a. do not change the intent or meaning of the Technical Specifications or operating procedures. All previously performed functions are being maintained.

Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the proposed amendment involve a significant reduction in a margin of safety?

Establishing operating personnel work hours at ''a normal 8 to 12 hour day, nominal 40-hour week'' allows normal plant operations to be managed more effectively and does not adversely affect performance of operating personnel. If 8 hour shifts are maintained in part or whole, then acceptable levels of performance from operating personnel is assured through effective control of shift turnovers and plant activities. Overtime remains controlled by site administrative procedures in accordance with the NRC Policy Statement on working hours (Generic Letter 82–12). The proposed change involves no physical modification of the plant, or alterations to any accident or transient analysis. [* * *] Therefore, the change does not involve any significant reduction in a margin of safety.

Editorial changes clarify sections 6.2.2.6.b. and 6.2.2.6.c. without changing the intent or meaning. [* * *] Changes to sections 4.5.F.3., 4.5.F.4., 4.5 BASES, 4.7.A.7.a. do not change the intent or meaning of the Technical Specifications or operating procedures.

All previously performed functions are being maintained. Therefore, the changes do not involve any significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David E. Blabey, 1633 Broadway, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: December 19, 1997.

Description of amendment request: The proposed amendment would revise the Hope Creek Generating Station (HCGS) Technical Specifications (TS) to incorporate changes that reflect the completion of the Salt Drift Monitoring Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes, which update the Terrestrial Ecology Monitoring Program status, are administrative in nature and in no way affect the initial conditions, assumptions, or conclusions of the Hope Creek Generating Station accident analyses. In addition, the proposed changes would not affect the operation or performance of any equipment assumed in the accident analyses. Based on the above information, we conclude that the proposed changes would not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

As previously stated, the proposed changes are administrative in nature and in no way impact or alter the configuration or operation of the facilities and create no new modes of operation. PSE&G therefore concludes that the proposed changes would not create the possibility of a new or different kind of accident.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The changes are administrative in nature and in no way affect plant or equipment operation or the accident analysis. PSE&G therefore concludes that the proposed changes would not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: November 14, 1997.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) to provide surveillance requirements for the service water accumulator vessels. Specifically, surveillance requirements are provided for vessel level, pressure and temperature, and discharge valve response time. The surveillance requirements are included in TS 3/4.6.1.1 and 3/4.6.2.3, and the applicable Bases sections are expanded to provide supporting information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes provide surveillance requirements for the Service Water [SW] accumulator tank level, pressure and temperature parameters and the discharge valve response time test. Supporting information is included in the Bases section of the applicable technical specifications. The SW accumulator tank and discharge valve design has been reviewed and approved by the NRC staff as documented in NRC Safety Evaluation Report (SER) dated June 19, 1997. The proposed surveillance requirements do not alter the design as reviewed by the NRC staff. The addition of tank parameter surveillance requirements to the technical specifications does not alter the physical plant arrangement or the installed monitoring instrumentation. The proposed addition of tank discharge valve response time surveillance requirements to the technical specifications does not alter the method of performing these surveillance requirements.

Therefore the proposed changes do not increase the probability of an accident. The surveillance requirements provide additional controls for ensuring the SW accumulator tank and discharge valves will be maintained within the design parameters assumed in the safety analysis. This provides added assurance that the accumulator tanks and discharge valves will be capable of performing their required design function during accident conditions. There is no change to the performance requirements of these components in preventing two phase flow conditions and water column separation waterhammer vulnerabilities identified in GL [Generic Letter] 96–06. Therefore, the proposed changes do not involve an increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes provide surveillance requirements for Service Water Accumulator tank level, pressure and temperature and discharge valve time response. Supporting information is included in the Bases section of the applicable technical specifications. The SW accumulator tank and discharge valve design has been reviewed and approved by the NRC staff as documented in NRC Safety Evaluation Report (SER) dated June 19, 1997. The proposed surveillance requirements do not alter the plant configuration. Installed instrumentation will be used to accomplish the tank surveillance requirements. The current plant installation also provides for completion of the discharge valve response time surveillance utilizing test equipment in accordance with plant procedures and configurations. Therefore the performance of these surveillance requirements does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Service Water Accumulator Vessels and discharge valves were installed to address the Generic Letter 96–06 issues of column separation waterhammer and two phase flow in the containment fan coil unit (CFCU) piping during an accident involving loss of offsite power. This design has been reviewed and approved by the NRC staff as documented in NRC Safety Evaluation Report (SER) dated June 19, 1997. The proposed surveillance requirements do not alter the design as reviewed by the NRC staff. By providing added assurance that these components are capable of performing their specified safety function as assumed in the safety analysis, the additional surveillance requirements assure system operability to further minimize the possibility of waterhammer and two phase flow in the CFCU piping during accident conditions. The proposal therefore minimizes the possibility of a new or different kind of accident from those previously evaluated accidents.

3. The proposed change does not involve a significant reduction in a margin of safety.

The additional surveillances provide added assurance that the margin of safety assumed in the containment integrity and containment cooling technical specification will be

maintained. The additional surveillance requirements further ensure that in the event the SW accumulator vessels are out of specification or the discharge valves do not meet their response time requirements, corrective actions will be completed in accordance with the existing containment integrity technical specification allowed outage time to restore containment integrity. The surveillance requirements further ensure that in the event the SW accumulator vessel or discharge valves do not meet these requirements, corrective actions will be completed in accordance with the containment cooling technical specification allowed outage time to restore the full complement of containment fan coil units to operability. Since the proposal maintains the margin of safety provided in the containment integrity and containment cooling technical specification, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: John F. Stolz.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: September 16, 1997.

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.4.13, ''RCS Operational Leakage,'' TS 5.5.2.11, ''Steam Generator (SG) Tube Surveillance Program,'' and TS 5.7.2, ''Special Reports.'' The proposed change is to allow steam generator tube repair using ASEA Brown Boveri/Combustion Engineering (ABB/CE) leak tight sleeving as an alternative steam generator tube repair to plugging.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The supporting technical evaluation and safety evaluation for the ASEA Brown Boveri/Combustion Engineering (ABB/CE) leak tight sleeves demonstrate that the sleeve configuration will provide steam generator (SG) tube structural and leakage integrity under normal operating and accident conditions. The sleeve configurations have been designed and analyzed in accordance with the requirements of the ASME Code. Mechanical testing has shown that the sleeve and sleeve joints provide margin above acceptance limits. Ultrasonic Testing (UT) is used to verify the leak tightness of the weld above the tubesheet. Testing has demonstrated the leak tightness of the hardroll joint due to the reinforcing effect of the tubesheet. Tests have demonstrated that tube collapse will not occur due to postulated Loss of Coolant Accident (LOCA) loadings.

A new, more conservative, Technical Specification (TS) SG tube leakage rate requirement is introduced by this change. Accident analysis assumptions remain unchanged in the event that significant leakage does occur from the sleeve joint or that the sleeve assembly ruptures. Any leakage through the sleeve assembly is fully bounded by the existing SG tube rupture analysis included in the San Onofre Nuclear Generating Station (SONGS) Updated Final Safety Analysis Report. Reactor coolant flow reduction from sleeving is addressed by a ratio of number of tubes sleeved to equal a plugged tube. The proposed sleeving repair process does not adversely impact any other previously evaluated design basis accidents.

Therefore, proposed changes do not involve a significant increase in the probability or consequences of an accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Installation of the sleeves does not introduce any significant changes to the plant design basis. The use of a sleeve to span the area of degradation of the SG tube restores the structural and leakage integrity of the tubing to meet the original design bases. Stress and fatigue analysis of the sleeve assembly shows that the requirements of the ASME Code are met. Mechanical testing has demonstrated that margin exists above the design criteria. Any hypothetical accident as a result of any degradation in the sleeved tube would be bounded by the existing tube rupture accident analysis.

Therefore, the operation of the facility in accordance with proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The use of sleeves to repair degraded SG tubing has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of the ASME Code and draft Regulatory Guide (RG) 1.121 and to maintain the primary to secondary pressure boundary under normal and postulated accident conditions. The safety factors used in the verification of the strength of the sleeve assembly are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in SG design. The operational and faulted condition stresses and cumulative usage factors are bounded by the ASME Code requirements. The sleeve assembly has been verified by testing to prevent both tube pullout and significant leakage during normal and postulated accident conditions. A test program was conducted to ensure the lower hardrolled joint design was leak tight and capable of withstanding the design loads. The primary coolant pressure boundary of the sleeve assembly will be periodically inspected by Non-Destructive Examination to identify sleeve degradation due to operation.

Installation of the sleeves will decrease the number of tubes which must be taken out of service due to plugging. There is a small amount of primary coolant flow reduction due to the sleeve for which the equivalent sleeve to plug ratio is assigned based on sleeve length. The ratio is used to assess the final equivalent plugging percentage as an input to other safety analyses. The sleeve maintains the design basis requirements for the SG tubing.

Therefore, operation of the facility with the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, Irvine, California 92713.

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison

Company, P. O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 17, 1997.

Description of amendment requests: The licensee proposes to amend the licenses for SONGS Units 2 and 3 to revise the Final Safety Analysis Report (FSAR) to permit digital radiation monitor installation for both trains supplying the containment purge isolation signal, and permit digital radiation monitor installation for both trains supplying the control room isolation signal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is required to permit using digital radiation monitors as input to both trains of the Control Room Isolation Signal (CRIS), and to both trains of the Containment Purge Isolation Signal (CPIS). These changes will allow replacement of the remaining safety related obsolete radiation monitor equipment to address spare parts and equipment availability issues. The new containment airborne radiation digital monitor will have the same basic architecture as the existing analog system, and serves to perform the same function. In addition, the digital radiation monitors are expected to be more reliable than the existing equipment which is of an analog design.

Furthermore, defense-in-depth equipment is available that either provides, or allows for, actions to mitigate the release of offsite and Control Room doses to within existing licensing limits based on realistic event input assumptions. Analyses show that if ''realistic'' input assumptions are utilized and reasonable operator actions are allowed, then acceptable dose consequences result both to the general public offsite, and to the Control Room operators.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will permit upgrading the existing analog radiation monitors with upgraded digital radiation monitors. Replacement of an analog system to a predominantly digital system, uses software algorithms to perform the required functions. A satisfactory software verification and validation (V&V) report, including continued software change control procedures, provides assurance that a software common mode failure is not likely.

In addition, the design, installation, testing, maintenance, and operation of the affected equipment will assure that no new or different kinds of accidents will be created. The ESFAS radiation monitors involved are portions of systems that respond to accidents. They can not, by their actions or inactions, create a new or different accident from any accident previously evaluated.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The CRIS and CPIS Radiation Monitor Systems provide an accident mitigation function for offsite doses (10 CFR 100) and Control Room doses (10 CFR 50 Appendix A, General Design Criteria 19). A change in the margin of safety is introduced due to the possibility of a software common mode failure in redundant equipment simultaneously affecting equipment performing a different function.

This change is not a significant reduction in the margin of safety, however, due to the following:

(1) A probabilistic risk analysis has determined that the availability of the affected radiation monitors, including software, should be better than the existing equipment based on industry data to date,

(2) The software V&V and preoperational testing to be performed will provide assurance of system operation, and

(3) The combined occurrence of a software common mode failure that simultaneously causes failure of all available ESFAS radiation monitors concurrent with a design bases accident is very unlikely.

In the unlikely event of a software common mode failure that causes all ESFAS radiation monitors to be inoperable concurrent with a design bases accident, analyses show that if ''realistic'' input assumptions are utilized and reasonable operator actions are allowed, then acceptable dose consequences result both to the general public offsite, and to the Control Room operators.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, Irvine, California 92713.

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770.

NRC Project Director: William H. Bateman.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: December 18, 1997.

Description of amendment request: The proposed amendments would modify or delete obsolete conditions from the Unit 1 and Unit 2 Operating Licenses. The changes are editorial or administrative in nature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes either remove or modify provisions in the Plant Hatch Unit 1 and Unit 2 Operating Licenses that have been completed or are otherwise obsolete. Certain Surveillance Requirements (SRs) that were either added or modified at the time of Improved Technical Specifications (ITS) implementation were listed in the Operating Licenses with a schedule for performance. With the exception of Unit 1 SR 3.8.1.18, all SRs are deleted from the Operating Licenses, because they have since been performed according to schedule, and will henceforth be

performed in accordance with the Technical Specifications.

A requirement for submittal of the Unit 1 inservice inspection plan for the recirculation and residual heat removal systems' piping is deleted due to completion of the activity.

Two exemptions granted at Unit 2 startup are deleted due to completion of the required activities associated with the exemptions. These were seismic qualification demonstration for the Unit 2 reactor protection system power supply and completion of the long-term BWR [boiling water reactor] Owner's Group Mark I containment program.

A requirement to conduct the Unit 2 Initial Test Program according to the requirements in Chapter 14 of the Final Safety Analysis Report without major changes is deleted due to completion of the activity. A condition relating to environmental protection is deleted from the Unit 2 Operating License, since it was superseded by the Environmental Protection Plan (Nonradiological), Appendix B to the Operating Licenses. Attachment 2, Items To Be Completed Prior To Opening Main Steam Isolation Valves, is deleted due to completion of the activities.

The proposed changes discussed above are strictly administrative/editorial and do not affect the operation or function of any plant system, component, or structure. Therefore, the proposed changes do not increase the probability of occurrence or the consequences of a previously evaluated accident.

2. The proposed changes do not create the possibility of a new and different type of accident from any previously evaluated.

The proposed administrative/editorial changes do not alter the operation of any plant system or equipment and do not introduce a new mode of operation. Thus, the proposed changes cannot create a new accident initiating mechanism. Therefore, the proposed changes do not create the possibility of a new and different type of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

Since the proposed changes are strictly administrative/editorial and do not involve any physical or procedural changes to the plant, the margin of safety, as defined in the bases for any Technical Specification is not affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 17, 1997.

Description of amendment request: The proposed amendment would extend the surveillance interval of the containment spray system nozzle air flow test from five years to ten years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. Operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not result in any hardware changes. The Containment Spray system trains or nozzles are not assumed to be the initiators of any analyzed events. Extending the surveillance interval for performing the Containment Spray system nozzle air flow test from five to ten years does not represent a significant increase in the probability of an accident. The Containment Spray system nozzles are not precursors to any accident analyses.

The Containment Spray system trains and nozzles function to mitigate the consequences of an analyzed event by providing spray flow to containment during an accident. The proposed change still provides assurance that the Containment Spray system nozzles will be maintained operable due to the passive nature of the design, the materials of construction, and the low-stress non-wetted environment. The extension of the surveillance interval does not significantly increase the probability or consequences of an accident since the nozzle will still be OPERABLE between surveillance tests.

B. Operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation. No new or different types of equipment will be installed. The proposed change will still ensure Containment Spray system nozzle OPERABILITY is adequately maintained.

C. Operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The increased interval between the Containment Spray system nozzle air flow test is acceptable due to the passive design of the nozzles and industry operating experience as detailed in NURG–1366. The increased interval is considered acceptable for maintaining nozzle OPERABILITY. The Containment Spray system, including the nozzles, will continue to provide their required safety function with the increase from five to ten years between inspections.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John Hannon.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 31, 1997.

Description of amendment request: The proposed amendment would revise Technical Specifications 2.1 (Safety Limits), 2.2 (Limiting Safety System Settings), and 3/4.2.5 (Departure from Nucleate Boiling Parameters) by including alternate operating criteria to allow continued plant operation with a reduced measured reactor coolant system flow rate, if necessary.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The affected Reactor Protection System functions will continue to provide their current safety function under alternate operating criteria for reduced measured Reactor Coolant System flow conditions. The OT Delta-T [Overtemperature Delta-T], OP Delta-T [Overpower Delta-T], and f(Delta-I) [a function of the indicated difference between top and bottom detectors of the power-range neutron ion chambers] safety-analysis reactor trip setpoints have been recalculated to appropriately reflect the reduced flow conditions. In doing so, the difference, or margins, between the nominal and maximum values of the reference trip setpoints (*i.e.*, K1, and K4 for the OT Delta-T and the OP Delta-T setpoints, respectively) have been maintained so that the Total Allowance remains unchanged and, therefore, the instrument accuracy uncertainties are unaffected.

Furthermore, implementation of the provisions for reduced measure Reactor Coolant System flow under alternate operating criteria for the South Texas Project Technical Specifications does not increase the probability or consequences of an accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. This change cannot directly initiate an accident. The consequences of accidents previously evaluated in the UFSAR are unaffected by this proposed change because no change to any equipment response or accident mitigation scenario has resulted. There are no additional challenges to fission product barrier integrity. Therefore, the probability of an accident previously evaluated has not been increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No new failure mechanisms or accident scenarios or limiting single failures are introduced as a result of this proposed change. Operation of the plant will be consistent with that previously modeled. All of the accident analyses previously evaluated in the UFSAR for South Texas Project Units 1 and 2 have been evaluated to support alternate operating condition with a 3 percent reduction in the minimum measured Reactor Coolant System flow. The new nominal Reactor Coolant System operating conditions supported by these evaluations have been determined. Revised Core Thermal Safety Limits have been established and will be incorporated into the Technical Specifications for the 3 percent Reactor Coolant System measured flow reduction; and, the OT Delta-T and OP Delta-T setpoints are re-calculated based on the new Safety Analysis Limits, appropriate for the reduced flow operation. These reactor protection system functions affected by the change in operating conditions will, therefore, continue to provide an appropriate response equivalent to current safety analysis modeling. The proposed Technical Specification amendment does not challenge the performance or integrity of safety-related systems. The possibility of a new or different kind of accident, therefore, is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The modification will have no effect on the availability, operability, or performance of the South Texas Project safety-related systems and components. This is based on: the evaluation performed of all accidents previously evaluated in the UFSAR for operation of South Texas Project Units 1 and 2 at reduced Reactor Coolant System flow conditions; establishment of revised Core Thermal Safety Limits that are reflected in the proposed Technical Specification applicable for the 3 percent Reactor Coolant System flow reduction; and, the appropriately re-calculated OT Delta-T and OP Delta-T setpoints, also applicable for these reduced flow conditions. Allowing provision for these alternate operating criteria does not prevent inspections or surveillance required by the Technical Specifications. The margin of safety associated with the acceptance criteria for any accident is unchanged, and therefore, the proposed modification will not reduce the margin of safety as defined in the Bases of the South Texas Project Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: December 23, 1997.

Description of amendment request: The license amendment request proposes changes to technical specification surveillances to remove the requirements related to accelerated testing of the standby emergency diesel generators, consistent with the recommendations in NRC Generic Letter 94–01, ''Removal of Accelerated Testing and Special Reporting Requirements for Emergency Diesel Generators.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not significantly increase the probability of occurrence of a previously evaluated accident because the standby diesel generators (including the High Pressure Core Spray [HPCS] diesel generator) are not initiators of previously evaluated accidents. The standby diesel generators mitigate the consequences of previously evaluated accidents involving a loss of offsite power. The Perry Nuclear Power Plant (PNPP) program developed to meet the Maintenance Rule (10 CFR 50.65) will continue to ensure the diesel generators perform their function when called upon. The change to the surveillance frequency does not affect the design of the diesel generators, the operational characteristics of the diesel generators, the interfaces between the diesel generators and other plant systems, the function, or the reliability of the diesel generators. Thus, the diesel generators will be capable of performing their accident mitigation function, there is no impact to the radiological consequences of any accident analysis, and the probability and consequences of previously evaluated accidents are not increased by this activity.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed activity involves a change to the frequency for specific technical specification surveillance requirements. No physical or

operational changes to the diesel generators or supporting systems are made by this activity. Since the proposed changes do not involve a change to the plant design or operation and thus no new system interactions are created by this change, these changes do not produce any parameters or conditions that could contribute to the initiation of accidents different from those already evaluated in the Updated Safety Analysis Report. The proposed changes only address the methods used to ensure diesel generator reliability. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes involve the methods used to ensure diesel generator performance and reliability. No changes, other than to frequency, are made to Technical Specification Surveillance Requirements 3.8.1.2 and 3.8.1.3. The NRC, in Generic Letter 94–01, has acknowledged the acceptability of the use of the Maintenance Rule program for the diesel generators to ensure diesel generator performance in lieu of accelerated testing. These proposed changes do not involve a change to the plant design or operation, and thus do not affect the design of the diesel generators, the operational characteristics of the diesel generator, the interfaces between the diesel generators and other plant systems, or the function or reliability of the diesel generators. Because the diesel generator performance and reliability will continue to be ensured by the diesel generator program to meet the Maintenance Rule, the proposed changes do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Richard P. Savio.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: December 23, 1997.

Description of amendment request: The proposed amendment would change Technical Specification (TS) Section 4.4.5, ''Reactor Coolant System—Steam Generators—Surveillance Requirements (SRs).'' SR 4.4.5.8 would be modified to provide flexibility in the scheduling of steam generator inspections during refueling outages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no change is being made to any accident initiator. No previously analyzed accident scenario is changed, and initiating conditions and assumptions remain as previously analyzed. The proposed change to Technical Specification (TS) Surveillance Requirement (SR) 4.4.5.8, to allow performance of required visual inspections of the secured internal auxiliary feedwater header, header to shroud attachment welds, and the external header thermal sleeves during the third period of the ten-year Inservice Inspection Interval, does not affect any Updated Safety Analysis Report (USAR) accident initiators. These inspections will continue to take place at a prescribed time interval scheduled similar to American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Section XI components. Therefore, it can be concluded that the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed change does not affect accident conditions or assumptions used in evaluating the radiological consequences of an accident. The proposed change does not alter the source term, containment isolation or allowable radiological releases.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not alter the way the plant is operated, and no new or different failure modes have been defined for any plant system or component important to safety, nor has any limiting single failure been identified as a result of the proposed changes.

These inspections were established to ensure that there are no new failure mechanisms resulting from these components. These inspections will continue to take place in the third period of each inservice inspection interval. No new or different types of failures or accident initiators are introduced by the proposed changes.

3. Not involve a significant reduction in a margin of safety because visual inspections will be performed on a prescribed frequency that is consistent with the schedules established for ASME Code components in accordance with ASME Code Section XI.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: December 23, 1997.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 1.0, ''Definitions,'' to clarify the meaning of core alteration; would relocate TS Section 3/4.9.5, ''Refueling Operations—Communications,'' and the associated bases to the Technical Requirements Manual; and would add TS Section 3.0.6 and the associated bases to address the return to service of inoperable equipment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards

consideration, which is presented below:

The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the probability of previously analyzed accidents is not affected by the criteria in the core alteration definition (Technical Specification (TS) 1.12). Nor do these changes, the proposed relocation of the refueling communications TS 3/4.9.5 and Bases to the DBNPS Updated Safety Analysis Report (USAR) Technical Requirements Manual (TRM), or the proposed addition of new TS 3.0.6 and Bases regarding return to service of inoperable equipment, affect any accident initiator, or assumption made in any safety analysis. The proposed changes are administrative in nature and are consistent with NUREG–1430, Revision 1, ''Standard Technical Specifications, Babcock and Wilcox Plants,'' dated April 1995, as modified by a pending NUREG–1430 change approved by the NRC, Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler Number 165.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not affect accident conditions or assumptions used in evaluating the radiological consequences of an accident. The proposed changes do not significantly alter the source term, containment isolation, or allowable radiological releases.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not change the way the plant is operated. No new or different types of failures or accident initiators are introduced by the proposed changes.

3. Not involve a significant reduction in a margin of safety because no inputs into the calculation of any Technical Specification Safety Limit, Limiting Safety System Settings, Technical Specification Limiting Condition for Operation, or other previously defined margins for any structure, system, or component important to safety are being affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Brockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Acting Project Director: Richard P. Savio.

Yankee Atomic Electric Company, Docket No. 50–029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: December 18, 1997.

Description of amendment request: By letter dated May 15, 1997, the licensee submitted a License Termination Plan. The NRC previously published a notice dated August 14, 1997, in the **Federal Register** (62 FR 43559) advising of receipt of the Plan. The proposed request is for a license amendment approving the Plan for the Yankee Nuclear Power Station.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. Accident analyses are included in the approved Decommissioning Plan and incorporated into the FSAR. All decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan. No systems, structures, or components that could initiate or be required to mitigate the consequences of an accident are affected by the proposed change in any way not previously evaluated in the approved Decommissioning Plan. Therefore, the proposed change is administrative in nature and does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. Accident analyses are included in the approved Decommissioning Plan and are incorporated into the FSAR. All decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan. The proposed change does not affect plant systems, structures, or components in any way not previously evaluated in the approved Decommissioning Plan, and no new or different failure modes will be created. Therefore, the proposed change is administrative in nature and does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. Approval of the License Termination Plan by license amendment is administrative in nature since all decommissioning and fuel storage activities described in the License Termination Plan are consistent with those in the approved Decommissioning Plan. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110–2624.

NRC Project Director: Seymour H. Weiss.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was

published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 2, 1997.

Brief description of amendments: The amendment changes the Calvert Cliffs Unit 1 Technical Specification Requirements 4.8.1.1.2.a.5, 4.8.1.1.2.d.4, and 4.8.1.1.2.d.5. Baltimore Gas and Electric Company is planning to modify existing 1B emergency diesel generator (EDG) to increase its rated continuous capacity from 2700 kW to 3000 kW by increasing the mechanical capacity of the engine. The change revises the above surveillance requirements to reflect the new electrical capacity of 1B EDG.

Date of issuance: January 5, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 224.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 5, 1997 (62 FR 59913).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 25, 1997.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by modifying the Limiting Condition for Operation (LCO) 3.6.1.2 (Containment Leakage), the associated action, and Surveillance Requirement (SR) 4.6.1.2 for Waterford Steam Electric Station, Unit 3 (Waterford 3). The air lock door seal leakage rate acceptance criteria in TS 6.15 is being changed from $0.01L_a$ to $0.005L_a$. TS 6.15 is also being modified to make the terms used in the Containment Leakage Rate Testing Program consistent with terms used in the TS.

Date of issuance: January 15, 1998.

Effective date: January 15, 1998.

Amendment No.: 138.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54872).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 15, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: October 10, 1997.

Brief description of amendment: The amendment revises the Oyster Creek Nuclear Generating Station (OCNGS) operating license and technical specifications to reflect the registered trade name of ''GPU Energy'' under which the owner of OCNGS now does business and to reflect the change of the legal name of the operator of OCNGS from GPU Nuclear Corporation to GPU Nuclear, Inc. In addition, two minor editorial corrections associated with the name change are included in the amendment.

Date of issuance: January 14, 1998.

Effective date: As of the date of issuance, with full implementation within 30 days.

Amendment No.: 194.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 5, 1997 (62 FR 59915). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 14, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: October 8, 1997, and October 21, 1997.

Brief description of amendments: The amendments increase both the minimum required ice mass per ice basket and the total minimum required ice mass in the ice condenser, and change the bases for the technical specifications.

Date of issuance: January 2, 1998.

Effective date: January 2, 1998, with full implementation within 45 days.

Amendment Nos.: 220 and 204.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54863).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: October 15, 1997.

Brief description of amendment: Technical Specification Surveillances 4.1.2.3.1, 4.1.2.4.1, 4.5.2, 4.6.2.1, and 4.6.2.2 require the recirculation spray, quench spray, residual heat removal, centrifugal charging, and safety injection pumps to be tested on a periodic basis and after modifications that alter subsystem flow characteristics. The amendment replaces the specific surveillance pump pressure with a statement that the test be conducted in accordance with Specification 4.0.5, Inservice Testing Program. The

amendment also decreases the required individual safety injection and centrifugal charging pump injection line flow rates, increases the allowed individual safety injection pump runout flow rate, and makes editorial changes to the surveillances.

Date of issuance: December 24, 1997.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 155.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 5, 1997 (62 FR 59918).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 24, 1997.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: November 4, 1997.

Brief description of amendments: These amendments revise Technical Specification 3/4.8.1 on the emergency diesel generators to (1) delete the 18-month surveillance requirements 4.8.1.1.2.d.1 and (2) eliminate the accelerated testing requirement of Table 4.8–1.

Date of issuance: January 8, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 203 and 185.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 3, 1997 (62 FR 63982).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 8, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendments: November 21, 1997 (TS 97–05).

Brief description of amendments: The amendments change the Technical Specifications (TS) to allow a one-time provision for testing power-operated relief valves in Mode 5.

Date of issuance: January 13, 1998.

Effective date: January 13, 1998.

Amendment No.: 230.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in **Federal Register**: December 1, 1997 (62 FR 63565).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 21st day of January 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1904 Filed 1–27–98; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 USC, Chapter 35), the Peace Corps is requesting emergency approval and clearance from the Office of Management and Budget for use of the Peace Corps Day Brochure/Form to be used by the World Wise Schools program. A copy of the information collection may be obtained from Monica Fitzgerald, Office of World Wise Schools, Peace Corps, 1990 K St., NW, Washington, DC 20525. Ms. Fitzgerald may be called at (202) 606–9498. Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; 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; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Comments on this form should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Day Brochure/Form.

Need for and use of the Information: This form is completed voluntarily by Returned Peace Corps Volunteers and educators throughout the country. This information will be used by WWS to identify individuals interested in participating in the Peace Corps's annual Peace Corps Day program. Enrollment in this program also fulfills the third goal of Peace Corps as required by Congressional legislation and to enhance the Office of World Wise Schools global education program.

Respondents: Returned Peace Corps Volunteers and educators throughout the public and private school systems in the United States.

Respondents obligation to reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 4,750 hrs.

b. Annual record keeping burden: 0 hrs.

c. Estimated average burden per response: 3 min.

d. Frequency of response: annually.

e. Estimated number of likely respondents: 95,000.

f. Estimated cost to respondents: $0.79.

This notice is issued in Washington, DC on January 23, 1998.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 98–2020 Filed 1–27–98; 8:45 am]

BILLING CODE 6051–01–M

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Allocating Unfunded Vested Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Allocating Unfunded Vested Benefits (29 CFR part 4211) (OMB control number 1212–0035). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by February 27, 1998.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) are available from the Communications and Public Affairs Department of the Pension Benefit Guaranty Corporation, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974, as amended (''ERISA''). Section 4211(c)(5)(A) of ERISA requires the PBGC to prescribe by regulation a procedure whereby multiemployer pension plans can change the way they allocate unfunded vested benefits to withdrawing employers, subject to PBGC approval. Approval of a change is to be based on a determination that the change will not significantly increase the risk of loss to plan participants or the PBGC.

The PBGC's regulation on Allocating Unfunded Vested Benefits (29 CFR part 4211) includes, in § 4211.22, rules for requesting the PBGC's approval of an amendment to a plan's allocation method. Section 4211.22(d) prescribes information that the PBGC needs to identify the plan and evaluate the risk of loss, if any, posed by the amendment (and, hence, determine whether it should approve the amendment). Section 4211.22(e) requires the submission of other information that the PBGC may need to review the amendment. (The regulation may be accessed on the PBGC's home page at http://www.pbgc.gov.)

The collection of information under the regulation has been approved by OMB under control number 1212–0035. The PBGC is requesting that OMB extend its approval for three years. 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 PBGC estimates that it receives five submissions from plan sponsors annually under the regulation; that virtually all submissions are prepared by outside consultants; that the total annual hour burden of engaging the services of such consultants is one hour; and that the total annual cost burden of having the submissions prepared is $1,575.

Issued in Washington, DC, this 23d day of January 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–2078 Filed 1–27–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23005; 812–10514]

Merrill Lynch & Co., Inc., et al.; Notice of Application

January 21, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from all provisions of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit Merrill Lynch Preferred Funding I, L.P. (the ''First Partnership'') and Merrill Lynch Preferred Capital Trust I (the ''First Trust'') to sell securities and use the proceeds to finance the business activities of its parent company, Merrill Lynch & Co., Inc. (''ML & Co.''), and companies controlled by ML & Co.

APPLICANTS: ML & Co., the First Trust, and the First Partnership.

FILING DATES: The application was filed on January 28, 1997. Applicants have agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 11, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, World Financial Center, North Tower, 250 Vesey Street, New York, NY 10281–1318.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. ML & Co. is a company incorporated under Delaware law. It is a holding company that, through its subsidiaries, provides investment, financing, insurance, and related services on a global basis. Its principal subsidiary, Merrill Lynch, Pierce, Fenner & Smith Incorporated, is a leading broker-dealer, investment banking firm, and underwriter. Other subsidiaries provide a variety of financial services on a global basis, including broker-dealer services, swap activities, futures activities, banking, investment banking, consumer and mortgage lending, real estate activities, and asset management. Applicants state that ML & Co. is primarily engaged in the business of a holding company, and does not hold more than 40% of its assets in ''investment securities,'' as defined in section 3(a)(2) of the Act.

2. ML & Co. has formed a two-tier structure, consisting of the First Trust and the First Partnership, to provide financing to itself and entities controlled by ML & Co. (''Controlled Companies''). To provide additional financing, ML & Co. proposes to form one or more two-tier structures

substantially similar to the First Trust and First Partnership [1] as well as one or more finance subsidiaries that differ in structure (each, an ''Other Finance Subsidiary'').

3. Each Trust will be a statutory business trust organized under the laws of Delaware or another jurisdiction. Each Partnership will be a limited partnership organized under the laws of Delaware or another jurisdiction. The general partner interests in the Partnership (the ''General Partner Interests'') will be owned by ML & Co. and/or one or more Controlled Companies, which will be the sole general partners of the Partnership (the ''General Partners'').

4. Each Trust will issue common securities (''Trust Common Securities'') and preferred securities (''Trust Preferred Securities''). The Trust Common Securities will represent undivided beneficial interests in the assets of the Trust and will be owned by ML & Co. and/or one or more of its Controlled Companies. The Trust Preferred Securities will represent preferred undivided beneficial interests in the assets of the Trust and will entitle the holders to receive cumulative cash distributions accumulating from the date of original issuance and payable quarterly in arrears at a specified rate, as well as a specified amount on liquidation of the Trust, if, as, and when the Trust has funds available for payment. The distribution rate and payment dates on the Trust Preferred Securities will correspond to the distribution rate and payment dates for the Partnership Preferred Securities (as defined below) which, as described below, generally will be the only assets of the Trust.

5. Each Partnership will sell the General Partner Interests and limited partnership interests (the ''Partnership Preferred Securities''). The Partnership Preferred Securities will provide essentially for the same distributions and liquidation payments as the Trust Preferred Securities. The funds for distributions on the Partnership Preferred Securities will come primarily from payments made to the Partnership by ML & Co. and/or its Controlled Companies.

6. Each Trust will use all of the proceeds of its offering of Trust Preferred Securities to purchase the Partnership Preferred Securities. The Trust will not invest or make loans to any other company. Each Partnership will make investments in or loans to ML & Co. and/or its Controlled Companies of at least 85% of any cash or cash equivalent raised or to be raised from the sale of the Partnership Preferred Securities, within six months of the receipt of such cash or cash equivalents. Applicants anticipate that substantially all of the proceeds from the sale of the Partnership Preferred Securities (and indirectly, from the sale of the Trust Preferred Securities), together with the capital contribution from the General Partners, will be used by the Partnership to purchase debentures or equity securities of ML & Co. and/or one or more of its Controlled Companies.

7. Amounts that are not loaned to ML & Co. and/or its Controlled Companies will consist of: (i) interest and dividends receivable from such investments and loans, cash on hand and demand deposits, time deposits and certificates of deposit, in no case having a maturity of greater than nine months; (ii) United States government securities; (iii) repurchase agreements having a maturity of no greater than nine months with respect to United States government securities; and (iv) other debt securities (*e.g.,* commercial paper) which arise out of current transactions, and which have maturities at the time of issuance not exceeding nine months.

8. The payment of distributions by the Trust or the Partnership and the payments on liquidation of the Trust or the Partnership will be guaranteed on a subordinated basis by ML & Co. (the ''Guarantee'').[2] If ML & Co. fails to make a guarantee payment, a holder of either Trust Preferred Securities or Partnership Preferred Securities may institute directly a proceeding against ML & Co. for enforcement of the payment without first proceeding against any other entity.

Applicants' Legal Analysis

1. Applicants request an order pursuant to section 6(c) of the Act granting an exemption from all provisions of the Act for the Trust, the Partnership, and the Other Finance Subsidiaries.[3] Applicants state that rule 3a–5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a–5(b)(3)(i) in relevant part defines a ''company controlled by the parent company'' to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a). Certain of the Controlled Companies do not fit within the definition of ''companies controlled by the parent company'' because they derive their non-investment company status from section 3(c)(2), 3(c)(3), 3(c)(4), 3(c)(5), or 3(c)(6) of the Act. None of the Controlled Companies which will receive loans from the Partnership or the Other Finance Subsidiary will be relying on section 3(c)(1), 3(c)(5)(C), or 3(c)(7) of the Act.

3. Applicants state that none of the Controlled Companies engage primarily in investment company activities. In addition, if ML & Co. or the Controlled Companies were themselves to issue the securities that are to be issued by the Trust or the Partnership and use the proceeds for their own purposes, they would not be subject to regulation under the Act. While ML & Co. has chosen to use the Trust, the Partnership, and the Other Finance Subsidiaries as financing vehicles, the Guarantee ensures that holders of Trust Preferred Securities will have direct recourse against ML & Co.

4. Section 6(c) of the Act permits the SEC to exempt any person or class of persons from any provision of the Act or from any rule under the Act, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the relief requested satisfies the section 6(c) standard.

Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

Applicants will comply with all of the provisions of rule 3a–5 under the Act, except that the Controlled Companies will not meet the portion of the definition of ''company controlled by a parent company'' in rule 3a–5(b)(3)(i) solely because they are excluded from the definition of investment company under section 3(c)(2), 3(c)(3), 3(c)(4), 3(c)(5), or 3(c)(6) of the Act, provided that any such entity excluded from the definition of investment company under section 3(c)(5) of the Act will fall within section 3(c)(5)(A) or section 3(c)(5)(B) solely by reason of its holdings of accounts receivable of either their own customers or of the customers of other ML & Co. subsidiaries, or by reason of

[1] The First Trust and each future organized trust is referred to herein as the ''Trust'' and the First Partnership and each future organized partnership is referred to herein as the ''Partnership.''

[2] *See, e.g., Cleary, Gottlieb, Steen & Hamilton* (pub. avail. Dec. 23, 1985).

[3] Applicants are not seeking relief for the two-tier structure. *See KDSM Inc. and Sinclair Capital* (pub. avail. March 17, 1997).

loans made by it to such subsidiaries or customers, provided, further, that any such entity excluded from the definition of investment company under section 3(c)(6) of the Act will not be engaged primarily, directly, or through majority-owned subsidiaries in one or more of the businesses described in section 3(c)(5) of the Act (except as permitted in this condition).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2016 Filed 1–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Struthers Industries, Inc.; Order of Suspension of Trading

United States of America Before the Securities and Exchange Commission

January 26, 1998.

On January 9, 1998, the Securities and Exchange Commission (the ''Commission'') ordered a 10 day suspension in trading in Struthers Industries, Inc. (''Struthers'') because of questions regarding the accuracy of statements, and material omissions, concerning, among other things, (1) the value of certain broadcast licenses in which Struthers claims to have an ownership interest, (2) the presence of or potential for a recapitalization which will enable Struthers to pursue its business plan, and (3) the resignation of Struthers' auditors.

It appears to the Commission that there is a further lack of current and accurate information concerning the securities of Struthers because of separate and additional questions regarding the accuracy of statements and material omissions in a press release issued by Struthers on or about January 12, 1998 to the effect that, among other things:

(1) Struthers continues to work closely with representatives of its former auditor, BDO Seidman, to resolve the ''disagreement with the SEC'' over the value of the IVDS licenses Struthers holds under contract; and

(2) Struthers' former auditor strongly believes that Struthers has fairly and accurately valued these licenses.

The Commission is of the opinion that the public interest and the protection of investors require a second suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST, January 26, 1998 through 11:59 p.m. EST, on February 6, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2183 Filed 1–26–98; 12:31 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To be Published]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: To Be Published.

CHANGE IN THE MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, January 29, 1998, at 10:00 a.m., has been cancelled.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: January 23, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–2136 Filed 1–23–98; 4:35 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39550; File No. SR–NASD–96–51]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 2, 3, and 4 to the Proposed Rule Change Relating to NASD Rule 11890 Regarding Clearly Erroneous Transactions

January 14, 1998.

On December 17, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder.[2] On January 17, 1997, the NASD filed Amendment No. 1 to the proposed rule change.[3] Notice of the proposed rule change and Amendment No. 1 thereto, including the substance of the proposal, were published for comment in the **Federal Register**.[4] No comments were received. On March 11, 1997, August 13, 1997, and January 5, 1998, the NASD, through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), submitted to the Commission Amendment Nos. 2,[5] 3,[6] and 4[7] respectively, to the proposed rule change. The Commission is hereby approving the proposed rule change, including Amendment 1 to the proposal. In addition, the Commission is publishing this notice to solicit

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated January 17, 1997 (''Amendment No. 1''). Amendment No. 1 corrected typographical errors in the text of the proposed rule change.

[4] Securities Exchange Act Release No. 38196 (Jan. 22, 1997) 62 FR 4368 (Jan. 29, 1997) (''Notice'').

[5] *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated March 11, 1997 (''Amendment No. 2''). In Amendment No. 2, the NASD: (1) Provides the names of Nasdaq officers who have authority to declare transactions clearly erroneous (*see* footnote 12, below); (2) replaces the term ''Association'' with ''Nasdaq'' in section (b)(4) of NASD Rule 11890; (3) clarifies that the Market Operations Review Committee's (''MORC's'') decision constitutes the final action of the NASD; (4) clarifies that the officers with the authority to declare on their own motion transactions clearly erroneous because of a system malfunction are the same persons who are authorized to take action when a member makes a complaint; (5) clarifies the length of time for Nasdaq to act on an allegedly clearly erroneous transaction; and (6) explains that as soon as Nasdaq obtains a written appeal from a party, Nasdaq would notify the other party to the transaction.

[6] *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated August 13, 1997 (''Amendment No. 3''). In Amendment No. 3, Nasdaq adds to NASD Rule 11890(d)(1) a provision that if Nasdaq notifies the parties of action taken pursuant to paragraph (c) of that rule after 4:00 p.m., either party has until 9:30 a.m. the next trading day to appeal.

[7] *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated January 5, 1998 (''Amendment No. 4''). In Amendment No. 4 Nasdaq corrected a drafting error to proposed NASD Rule 11890(d)(1) to clarify that an ''appeal to the Committee [*i.e.*, the MORC] shall not operate as a stay of the determination made pursuant to paragraphs (a)(2) or (c)'' of proposed NASD Rule 11890.

comments from interested persons on Amendment Nos. 2, 3, and 4 to the proposed rule change and is approving those amendments on an accelerated basis.

I. Description of Rule Changes

A. Background

In April 1990, the SEC approved an NASD proposal to add Section 70 to the Uniform Practice Code (now NASD Rule 11890) to permit the NASD to declare clearly erroneous transactions null and void if they arise out of the use or operation of any automated quotation, execution, or communication system owned or operated by the NASD. Previously, the NASD had no authority to cancel a transaction, even if one or more terms of the transaction clearly was in error. As described in Nasdaq's filing, one of the catalysts for adopting Rule 11890 was a member's complaint concerning a transaction executed over SelectNet. The transaction was ten points away from the inside quotation, which the member argued was clearly an error, but the contra party refused to cancel the transaction. NASD Rule 11890 gives Nasdaq the ability to resolve disputes involving obvious errors in an expeditious manner, akin to an exchange floor governor ruling.[8]

B. Current Procedures

NASD Rule 11890 governs the review and resolution of clearly erroneous transaction complaints. Currently, the rule permits the NASD to declare any transaction arising out of the use or operation of any automated quotation, execution, or communication system owned or operated by the NASD or any subsidiary thereof, null and void when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. The rule also sets forth procedures for declaring a transaction null and void.

Under NASD Rule 11890(b)(1), a member or person associated with a member seeking to have a transaction declared null and void must notify an officer of the NASD designated by the President of the transaction during Nasdaq's operating hours on the same business day the transaction occurs, and provide such official with all facts and information necessary for a determination. The rule requires the complainant to confirm in writing any information communicated orally. Each member and/or person associated with a member involved in the transaction must provide the NASD with any information requested to resolve the matter on a timely basis.

Under NASD Rule 11890(b)(2), the designated officer must then review the information submitted and determine whether the transaction is clearly erroneous and detrimental to the maintenance of a fair and orderly market and the protection of investors and the public interest. The official may decline to act on a disputed transaction if he or she believes that action is unnecessary or inappropriate. Under NASD Rule 11890(b)(3), if either party wishes to appeal the staff determination, it may seek review by the Market Operations Review Committee (''MORC'').

While the current procedures have served as a vehicle to cancel erroneous transactions, experience has shown that NASD Rule 11890 can be improved to enhance the fairness and expediency with which clearly erroneous transaction complaints are resolved. Experience with the Rule also has revealed shortcomings in the scope of Nasdaq's authority to take action with respect to clearly erroneous transactions. In particular, there have been instances in the past where it would have been appropriate for NASDAQ to declare a series of transactions clearly erroneous even through the parties to the transactions were unaware of any error and therefore were not in a position to bring the error to Nasdaq's attention. The proposed changes to NASD Rule 11890 are intended to eliminate these shortcomings and to provide Nasdaq with additional capabilities to resolve clearly erroneous transactions.

C. Proposed Amendments

The proposed amendments provide greater specificity and flexibility regarding declarations of clearly erroneous transactions. As explained in more detail below, the proposed amendments would:

(1) Provide Nasdaq officials the authority to effciently and expeditiously nullify or modify the price and size of clearly erroneous transactions (currently, Nasdaq officials may only nullify, affirm, or decline to act with respect to an allegedly clearly erroneous transaction) (NASD Rule 11890(a)(2));

(2) Shorten the time period in which parties may submit clearly erroneous transaction complaints from any time the same day to within 30 minutes of the disputed transaction (NASD Rule 11890(b)(1));

(3) Clarify the procedures by which the parties to an allegedly clearly erroneous transaction may submit written information concerning the transaction (NASD Rule 11890(b)(2)–(4));

(4) Provide Nasdaq officials the requisite authority to cancel or modify clearly erroneous transactions on their own motion during system disruptions or malfunctions in the use or operation of any automated quotation, execution, or communication system owned or operated by Nasdaq and approved by the Commission (NASD Rule 11890(c));

(5) Prohibit a member from withdrawing a clearly erroneous transaction complaint unless the other party to the transaction agrees to withdraw the matter (NASD Rule 11890(b)(5));

(6) Shorten the time period to appeal a clearly erroneous transaction determination from four ''market'' hours to 30 minutes (NASD Rule 11890(d)(1)); and

(7) Clarify that an appeal of a clearly erroneous transaction determination does not operate as a stay of the determination (NASD Rule 11890(d)(1)).

Under the proposed rule change, a complainant seeking to have a transaction reviewed must submit a written complaint to Nasdaq Market Operations: (1) By 10:30 a.m., Eastern Time, for transactions occurring prior to 10:00 a.m.; or (2) within 30 minutes of the transaction for transactions occurring on or after 10:00 a.m.[9] Once a complaint is received, the complainant has up to 30 minutes, or such longer period as specified by Nasdaq staff, to submit any supporting written information concerning the complaint necessary for a determination. [10] The counterparty to the transaction would be verbally notified of the complaint by Nasdaq staff and would have up to 30 minutes, or such longer period as specified by Nasdaq staff, to submit any supporting written information concerning the complaint necessary for a determination. Either party to a disputed transaction may request the written information provided by the other party. Once a party to a disputed transaction communicates that it does not intend to submit any further information concerning a complaint, the party may not thereafter provide additional information unless requested to do so by Nasdaq staff.[11] If both parties to a disputed transaction indicate that they have no further information to provide concerning the complaint before their respective 30-minute periods have elapsed, the matter would

[8] *See, e.g.*, New York Stock Exchange Rule 75.

[9] Proposed NASD Rule 11890(b)(1).

[10] Proposed NASD Rule 11890(b)(2).

[11] Proposed NASD Rule 11890(b)(3).

be immediately presented by a Nasdaq officer for a determination.

Under the proposed rule change, the President of Nasdaq would designate officers of Nasdaq who would have the authority to review any transaction arising out of the use or operation of any automated quotation, execution, or communication system owned or operated by Nasdaq and approved by the Commission.[12] A Nasdaq officer would review the transactions with a view toward maintaining a fair and orderly market and protecting investors and the public interest. Based upon this review, the officer would (1) Decline to act on a disputed transaction if the officer believes the transaction under dispute is not clearly erroneous, or (2) declare the transaction null and void or modify one or more terms of the transaction if the officer determines that the transaction is clearly erroneous.

With respect to the modification of transactions, the Nasdaq officer may adjust any of the terms of a disputed transaction (*e.g.*, price, number of shares or other unit of trading, or identification of the security) to achieve an equitable rectification of the error that would place the parties to the transaction in the same position or as close as possible to the same position as they would have been in had the error not occurred. After making a determination with respect to a particular transaction or group of transactions, Nasdaq would promptly provide oral notification of that determination to the parties and thereafter issue a written confirmation of the determination.[13] Under the proposal, once a party has applied to Nasdaq for review, the transaction would be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to a decision being rendered.[14]

The proposed rule change also would provide Nasdaq with the authority and procedures to review transactions executed during system disruptions or malfunctions in the use or operation of any automated quotation, execution or communication system owned or operated by Nasdaq and approved by the Commission.[15] In such an event, Nasdaq, acting through an officer designated by the President of Nasdaq, may, on its own motion, declare the transactions null and void or modify the terms of the transactions.[16] The proposed rule provides that in the absence of extraordinary circumstances, a Nasdaq officer must take action within 30 minutes of detection of the clearly erroneous transactions, but by no later than 6:00 p.m., Eastern Time, on the next trading day following the date of the transactions at issue. When Nasdaq takes action under these circumstances, the member firms involved in the transactions would be notified as soon as practicable and have a right to appeal such action.

Finally, the NASD proposal changes the process by which a Nasdaq officer's determination is appealed. Under the proposal, a member or person associated with a member may appeal a determination to the MORC, provided that such an appeal is made in writing within 30 minutes after the member or person associated with a member receives verbal notification of such determination.[17] An exception exists for circumstances where Nasdaq notifies the parties of action taken pursuant to paragraph (c) (*i.e.*, in cases of system disruptions or malfunctions) after 4:00 p.m. Under these circumstances, either party has until 9:30 a.m. the next trading day to appeal after the member or person associated with a member receives verbal notification of such determination. Once a written appeal has been received, the counterparty to the transaction would be notified of the appeal[18] and both parties would be permitted to submit any additional supporting written information until the time the appeal is considered by the MORC. Either party to a disputed transaction may request the written information provided by the other party during the appeal process. An appeal to the MORC would not operate as a stay of the determination. Once a party has appealed a determination to the MORC, the determination would be reviewed and a decision rendered. Upon consideration of the record and after such hearings as it may in its discretion order, the MORC would affirm, modify, reverse, or remand the determination of the designated Nasdaq officer. Under the proposal, any adverse determination by a Nasdaq officer or any adverse decision by the MORC would be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.[19]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 2, 3, and 4. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–96–51 and should be submitted by February 18, 1998.

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[12] Proposed NASD Rule 11890(a)(2). According to the NASD, officers of Nasdaq are designated by the President of Nasdaq based on the breadth and depth of their experience regarding Nasdaq's rules and market procedures. Alfred Berkeley, Nasdaq's President, has designated, in addition to himself, the following senior officers of Nasdaq as having the authority to act under Rule 11890(a)(2) and 11890(c): John T. Wall, Executive Vice President; John Hickey, Executive Vice President; Glen Shipway, Senior Vice President; Sherman W. Broka, Senior Vice President; Mark DeNat, Vice President; Donald Bosic, Vice President; Beth Weimer, Vice President; William Wlcek, Vice President; Richard Gonzales, Vice President; Richard Bayha, Vice President; and Robert E. Aber, Vice President and General Counsel. According to the NASD, these officers are the only officers that are authorized to declare a transaction clearly erroneous. A list of these designated officers would be maintained by Nasdaq Market Operations and the NASD's Corporate Secretary. *See* Amendment No. 2.

[13] The NASD has represented to the Commission that Nasdaq officers will render a decision based upon the record as soon as possible under the circumstances. According to the NASD, currently, in almost all cases, the officer makes a decision on the same day the transaction occurred. The NASD indicated that a matter is not handled on the transaction date only where the complaint was filed late in the day (*i.e.*, after 5:00 p.m.) and the necessary information cannot be obtained the same day. The NASD explained that, generally, a decision is made within an hour of the final submission from a party except where a particular transaction involves complexities that require the staff to take additional time to verify facts provided by the parties. *See* Amendment No. 2.

[14] Proposed NASD Rule 11890(b)(5).

[15] Proposed NASD Rule 11890(c).

[16] The officials who have the authority to review transactions on their own motion would be the same officials who have the authority to review transactions submitted by a member's complaint. *See* Amendment No. 2 and note 12, above.

[17] Proposed NASD Rule 11890(d).

[18] As soon as Nasdaq obtains a written appeal from a party, Nasdaq would notify the other party to the transaction of the appeal. *See* Amendment No. 2, and note 5, above.

[19] *See* Proposed NASD Rule 11890(d)(2). In Amendment No. 4, Nasdaq clarified the ability of parties to seek arbitration: With respect to the ability of a party to submit a dispute to arbitration without prejudice notwithstanding an adverse decision by a Nasdaq officer or the Committee [*i.e.*, the MORC], as set forth in paragraph (d)(2) [of proposed NASD Rule 11890], it should be made clear that this rule does not prevent such party from seeking arbitration either before any such decision is rendered, or in the absence of a determination altogether.

III. Discussion

The Commission finds the proposed rule change, by helping to ensure that clearly erroneous transactions are quickly corrected or nullified and properly reported to the public, is consistent with the Exchange Act and in particular with Sections 15A(b)(6) and 11A(a)(1)(C) of the Exchange Act. Among other things, Section 15A(b)(6) requires that the rules of a national securities association be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Section 15A(b)(6) also provides that the rules of the association not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 11A(a)(1)(C) provides that, among other things, it is in the public interest to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In the proposed rule change, the NASD provides greater specificity in the procedures for resolving clearly erroneous transactions and greater flexibility to Nasdaq officials to remedy such errors expeditiously. The Commission believes that the amendments to the NASD's procedures to review these transactions should benefit market participants by promoting fair and efficient resolution of disputes involving clearly erroneous transactions. In addition, the proposed rule change—in particular the provision for appeal to the MORC—addresses concerns raised by the Commission in its August 8, 1996, Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD and The Nasdaq Stock Market regarding the fairness of the clearly erroneous review process. The NASD believes, and the Commission agrees, that with these amendments the process for resolving clearly erroneous transaction complaints would become fairer and more efficient. In this regard, the proposal is consistent with Exchange Act Section 15A(b)(6) because it helps to ensure that NASD Rule 11890 does not permit unfair discrimination between customers, issuers, brokers, or dealers.

Further, it is important for the proper functioning of the securities markets that investors be able to rely on reported transactions as accurately reflecting the current state of the market and actual executions. When clearly erroneous transactions are publicly reported, it is important that, whenever possible,[20] Nasdaq correct these clear errors and correct the inaccurate information that was disseminated in the market about these transactions as quickly as possible.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to national securities association and, in particular, the requirements of Sections 15A(b)(6) and 11A(a)(1)(c) and the rules and regulations thereunder.[21]

Finally, the Commission finds good cause for approving Amendment No. 2, 3, and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Exchange's proposal was published in the**Federal Register** for the full statutory period.[22] Amendment Nos. 2, 3, and 4 are technical amendments that clarify the operation of the rule to enhance market participants' comprehension and compliance with these procedures. The Amendments do not diminish the rights of any prospective party with respect to resolving clearly erroneous transactions. Consequently, the Commission finds that there is good cause, consistent with the Exchange Act, to accelerate approval of Amendment Nos. 2, 3, and 4.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[23] that the proposed rule change (SR–NASD–96–51) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

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[20] Regarding the transparency of voided or modified clearly erroneous transactions, Nasdaq represented to the Division of Market Regulation that whenever possible within the constraints of Nasdaq's systems, Nasdaq will endeavor to ensure that the tape and historical record will be corrected as soon as possible. Given that allegedly clearly erroneous trades will now be brought to Nasdaq's attention within 30 minutes rather than within four hours as was previously the case, it will be significantly less likely that transactions voided or modified as clearly erroneous will not be corrected on the tape or historical record. Nasdaq also represented that in 1997, when the time period was still four hours, clearly erroneous transactions that were modified or voided were almost always corrected on the tape or historical record. Conversation between Andrew S. Margolin, Office of the General Counsel, Nasdaq, and Jeffrey R. Schwartz, Special Counsel, Division of Market Regulation, SEC, January 8, 1998.

[21] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change likely will enhance the efficiency and fairness of the process by which clearly erroneous transactions are modified or nullified. The proposal also should increase the accuracy of transaction reports disseminated to the public. The net effect of approving the proposed rule change will be positive. 15 U.S.C. § 78c(f).

[22] *See* Securities Exchange Act Release No. 38196, *supra* note 4.

[23] 15 U.S.C. § 78s(b)(2).

[24] 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39563; File No. SR–NSCC–97–14]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change to Modify NSCC's Procedures Regarding its Trade Comparision Service

January 20, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 9, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commisssion'') the proposed rule change (File No. SR–NSCC–97–14) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will modify NSCC's procedures regarding its trade comparison system for over-the-counter (''OTC'') securities.

II. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by NSCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will modify NSCC's procedures regarding its trade comparison service. The proposed rule change will discontinue the following instructions: the ''delete of original trade input,''[3] the ''demand withold,''[4] and the ''demand as of.''[5] Such instructions are used very infrequently by NSCC members due to the growth of automated processing systems. Their elimination will result in reduced costs to members.

Additionally, the change will eliminate the ability to submit an advisory listing after the first day after trade date (''T+1'') for original input and as of trades.[6] This change results from extremely limited acceptances of advisories of T+2 and will also reduce costs.

Under the third change, the supplemental contract lists and the added trade contract lists will no longer carry forward totals. The supplemental contract lists show all compared trades resulting from adjustments submitted on T+1. The added trade contract lists show trades that are compared on T+2 and thereafter. NSCC has been advised that due to the increasingly automated processing environment, totalled information is no longer necessary. This will reduce computer processing time and therefore will also diminish production costs. These modifications are scheduled to take place in April of 1998.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder since it will facilitate the prompt and accurate clearance and settlement of securities transactions and, in general, will protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

[3] NSCC members use the delete of original trade input to delete any item for which the comparison process resulted in an uncompared trade.

[4] The demand withhold service deletes previously compared OTC transactions which have been canceled by mutual agreement of the buyer and the seller.

[5] OTC trade data submitted by members which is uncompared may be resubmitted through the demand as of service.

[6] Advisory listings indicate trades which were submitted by another party against the member but which did not match any trade the member submitted.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which NSCC consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–97–14 and should be submitted by February 28, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39564; File No. SR–NYSE–97–30]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change To Amend and To Make Permanent the Allocation Policy and Procedures Pilot Program

January 20, 1998.

I. Introduction

On October 20, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend and to obtain permanent approval of the Exchange's Allocation Policy and Procedures pilot program.

The proposed rule change was published for comment in the **Federal Register** on November 7, 1997.[3] No comments were received on the proposal. On January 2, 1998, the NYSE submitted Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change and approves Amendment No. 1 on an accelerated basis.

II. Background and Description of the Proposal

The Exchange's Allocation Policy and Procedures (''Policy'') are intended: (1) to ensure that securities are allocated in an equitable and fair manner and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 39288 (October 30, 1997) 62 FR 60297.

[4] *See* Letter from Agnes M. Gautier, Vice President, Market Surveillance, NYSE to Sharon Lawson, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated December 26, 1997 (''Amendment No. 1''). In Amendment No. 1, the NYSE clarified the proposal with respect to: (1) Exchange representation at interviews between specialist units and listing companies; (2) Exchange review of written materials supplied by specialist units to listing companies; and (3) specialist unit contact with a listing company. In addition, Amendment No. 1 deletes the sentence inviting listing companies to express in a letter sent to the Exchange's Allocation Committee any preference not to be traded by specialist units which trade the stock of the listing companies' competitors.

specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system. On February 28, 1997, the Exchange proposed to change the Policy to allow greater listing company input. On March 7, 1997, the Commission approved the proposal as a seven-month pilot program, effective until October 7, 1997.[5] Subsequently, the Commission has approved two extensions of the Exchange's pilot program; the current extension expires January 16, 1998.[6]

Under the pilot program, listing companies may: (1) Have the Allocation Committee select their specialist unit (''Option 1''); or (2) make the final selection of a specialist unit from among a group of three of five specialist units selected by the Allocation Committee (''Option 2''). In either case, the listing company may submit a generic letter to the Allocation Committee which may describe desired general characteristics of a specialist unit, but may not mention particular specialist units. Under Option 2, the listing company meets, either in person or by teleconference, with the specialist units selected by the Allocation Committee within two business days after their selection. The listing company must make its decision as to a specialist unit by the next business day.

The Exchange is proposing several changes to the Policy in addition to requesting permanent approval of the pilot permitting Option 2. First, when the listing company selects Option 2, currently the Allocation Committee will select a group of three, four or five units that are the most qualified specialist units among the units that apply. It is proposed that if three units are selected, the Allocation Committee may select an alternate specialist unit to be among the group of units that a company may interview in the event a unit is eliminated. A specialist unit could be eliminated if it cannot meet with the listing company at the appointed time. A unit chosen as an alternate will be informed of its status as such. Currently, the policy is silent regarding this procedure.

Second, the Exchange is proposing several changes covering contacts between specialist units and listing companies. The NYSE is proposing to codify in its Policy its prohibition on contact between listing companies and specialist units from the time allocation applications are solicited until Allocation Committee meetings. The current Policy is silent regarding contact between listing companies and specialist units. However, the NYSE's Information Memo No. 97–13 states that once allocation applications are distributed, the Exchange expects that specialist units will have no contact with the listing companies. The proposed change would codify this existing restriction into the Policy itself.[7]

The proposal also would allow specialist units to provide written material to Exchange staff from the time of selection of an interviewing pool to no later than two hours before the scheduled interview. Exchange staff would provide the written material to the listing company on the day of the interview. The proposal further would require written material to be limited to information pertaining to the specialist unit, and would not permit any reference to another specialist unit or units, except overall floorwide statistics. In addition, the amended proposal would require periodic, random reviews of such material by Exchange staff after the allocation process has been completed. The NYSE represents that it will take appropriate regulatory action should problems with the written materials provided to listing companies be disclosed.[8]

Under the terms of the proposal, a specialist unit may not supply information at the interview [9] concerning another specialist unit or units either orally or in writing, except it may refer to overall floorwide statistics. The proposal would permit any information contained in Exchange documents to be provided by the unit orally or in writing on the unit's letterhead. Following its interview, the proposal would prohibit a specialist unit from having any contact with listing company and any follow-up questions by the company regarding publicly available information on a unit would be required to be sent to the Exchange. If the Exchange approves, a response would be provided. The proposal provides that the specialist units in the group of units interviewed would be advised of such requests.

Third, under the Policy, the listing company's letters to the Allocation Committee can describe characteristics that focus on the specialist unit rather than the listing company. According to the NYSE, letters which describe the listing company are more helpful to the Allocation Committee in assessing the type of specialist unit that would be appropriate for the company. Therefore, the Exchange proposes to change the Policy to require that any letter submitted by the listing company to the Allocation Committee focus on the history and background of the company and its industry; how the company historically has funded its operations; characteristics of its shareholder base and any unusual trading patterns that may result therefrom; and any public information regarding the company's plans for the future. The letter may also include the company's specific views on being traded by a specialist unit with experience in trading in its industry or country.[10]

Fourth, under the current policys within two business days after the selection of a group of specialist units by the Allocation Committee, the listing company must meet with the specialist unit's representative. In addition, the listing company must select its specialist unit within one business day of the interview. The Exchange believes that these time frames have been, at times, too compressed for company travel arrangements or preparation by the specialist units. Accordingly, the NYSE is proposing to amend this portion of the policy to permit the listed company to meet with the selected group of specialist units' representatives up until the close of business on the last Exchange business day of the week in which the selection of the group was

[5] *See* Securities Exchange Act Release No. 38372, 62 FR 13421 (March 21, 1997) (notice of filing and immediate effectiveness of File No. SR–NYSE–97–04). On April 16, 1997, the Exchange filed another proposed change to its Policy not covered under the pilot program. *See* Securities Exchange Act Release No. 38828 (July 9, 1997) 62 FR 39043 (July 21, 1997) (order approving File No. SR–NYSE–97–12).

[6] *See* Securities Exchange Act Release Nos. 39206 (October 6, 1997) 62 FR 53679 (October 15, 1997) (notice of filing and order granting accelerated approval of File No. SR–NYSE–97–27); and 39368 (November 26, 1997) 62 FR 64613 (December 8, 1997) (notice of filing and immediate effectiveness of File No. SR–NYSE–97–32).

[7] The current Policy does require specialist units to describe in their allocation applications any contacts with the listing company with regard to its prospective listing on the Exchange within six months prior to the date that allocation applications are solicited. According to the NYSE, such contacts are among the factors considered by the Allocation Committee in allocating a stock to a specialist unit or selecting a unit to be interviewed by the listing company. *See* Amendment No. 1, *supra* note 4.

[8] *See* Amendment No. 1 *supra* note 4.

[9] According to the NYSE, staff of its Listing Department will continue to attend interviews between listing companies and specialist units. In addition, Exchange Regulatory staff will randomly attend interviews for two listings each month and conduct meetings with members of the Exchange's Listings staff to educate them on regulatory issues. *See* Amendment No. 1, *supra* note 4.

[10] The NYSE also proposed to amend the Policy to invite a listing company to include in its letter any preference that its stock not be traded by specialist units which trade competitors' stock. In Amendment No. 1, the NYSE deleted all reference to any preferences the listing company may have with respect to the units trading competitors' stock. Listing companies will not, however, be prohibited from stating such a preference in letters sent to the Allocation Committee. *See* Amendment No. 1, *supra* note 4.

made by the Allocation Committee. Further, the amended proposal provides that as soon as practicable, following its meeting with representatives of the specialist units, the listing company would be required to select its specialist unit. If a listing company meets with any of its specialist units on the last Exchange business day of the week, it would be required to make its decision on that day.

Fifth, the Policy currently permits telephone interviews at the request of a listing company. According to the NYSE, in-person interviews have been shown to be more effective. Therefore, under the proposal, telephone interviews would not be permitted for domestic listing companies, unless approved by the Exchange for compelling circumstances. Telephone interviews would continue to be permitted for non-U.S. listing companies.

Finally, the NYSE is proposing to change the Policy concerning spin-offs and related companies. Under the proposed revisions to the Policy, a listing company that is a spin-off or related company may choose to stay with the specialist unit registered in the related listed company. Currently, situations in which a listing company is a spin-off of or related to a listed company are handled as new listings, with allocation open to all specialist units. Under the terms of the proposal, if a listing company that is a spin-off or related company chooses to have the Allocation Committee select its specialist, the listing company may request, and the Allocation Committee will honor, that it not be traded by the unit that trades the related listed company. Alternatively, the proposal would permit the listing company to choose Option 2 and request that the Allocation Committee include or exclude the specialist unit registered in the related listed stock from the pool of specialist units.[11]

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Act[12] and the rules and regulations thereunder applicable to a national securities exchange.[13] The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[14] in that it is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

From the outset, the Commission has had two primary concerns relating to the Exchange's pilot program: (1) whether the resulting allocations would be based on objective factors, such as specialist performance, or influenced by such factors as promotional efforts of specialist units; and (2) whether this new procedure would create the appearance of impropriety between the specialist and the listing company and thereby undermine public confidence in the integrity of the marketplace. The Commission approved the new procedures as a pilot program to give the NYSE time to gain experience with the new procedures and to allow both the Exchange and the Commission additional time to evaluate the merits of the program.

After assessing the results of the NYSE's pilot program, the Commission has determined to approve on a permanent basis the proposed changes to the Policy. The Commission notes that there is no evidence of any problems with the pilot program during its ten months of operation and the Commission believes that the Exchange is applying the established criteria appropriately. In addition, the Commission believes that the proposed amendments implement and enforce safeguards which should ensure that inappropriate or prohibited relationships between specialist units and listing companies do not develop.

Specifically, the Commission believes that it is appropriate to continue to permit listing companies to have the choice to have greater input in the selection of the specialist unit that will trade the companies' stock. The Commission notes that listing companies retain the right to request the Allocation Committee to select a specialist unit on their behalf based on the criteria specified in the Policy.[15] The Commission further notes that under Option 2, where a listing company has the opportunity to select its own specialist unit, it must do so from a group of three to five units that are selected by the Allocation Committee as the most qualified specialist units among the units that apply based on the criteria in the Policy.[16] Because under either Option, the allocation criteria, which focuses primarily on specialist performance, must be applied by the Allocation Committee, the Commission believes that the allocation process will continue to ensure that the best qualified and performing units will be rewarded with allocations.

Second, the NYSE's proposal contains several safeguards to ensure the continued integrity of the allocation process and that contacts between specialists and listing companies are appropriately monitored when Option 2 is used. In this regard, the NYSE's proposal codifies in its Policy its prohibition on contact between listing companies and specialist units from the time allocation applications are solicited until Allocation Committee meetings. This should help to maintain the integrity of the allocation process and ensure that inappropriate contacts and solicitations are not permitted. The Commission also notes that the current Policy requires specialist units to disclose all contacts with the listing company within six months of the date that allocation applications are solicited. The Commission believes that it is appropriate for the Allocation Committee, in allocating a stock to a specialist unit or selecting units to be interviewed by the listing company, to consider prior contacts between the listing company and the specialist units as a factor in the decisionmaking process.[17]

The Commission further believes that the provisions of the proposal restricting written material to information pertaining to the specialist unit, except overall floorwide statistics, is reasonable as it allows specialist units to provide evidence of their own perceived strengths and historical performance, and will help to prevent unsubstantiated claims against other units also competing for the allocation. The NYSE has stated that it will randomly review the written materials supplied by specialist units to listing companies after the allocation process

[11] This is similar to the Policy's current approach to relisting and listed company mergers.

[12] 15 U.S.C. 78f.

[13] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] Under the Policy, the Allocation Committee is required to base allocation decisions on: (1) the results of the Specialist Performance Evaluation Questionnaire (''SPEQ''); (2) objective performance measures; and (3) the Allocation Committee's expert professional judgment in considering the SPEQ, objective measures of performance, and other enumerated criteria, such as professional judgment, listing company input, allocations received, capital deficiency, disciplinary actions, justifiable complaints and foreign listing considerations. The SPEQ includes several facets, including ratings in the current quarter, improved ratings, and ratings over time. Objective measures of performance considered by the Allocation Committee include dealer participation rates, stabilization, capital utilization, and near neighbor analysis, as well as timeliness of regular openings, promptness in seeking Floor official approval of non-regulatory delayed openings, timelessness of DOT turnaround, and response to administrative messages.

[16] *Id.*

[17] *See* Amendment No. 1, *supra* note 4.

has been completed to discover any inaccuracies in the material.[18] While the Commission believes that prior review by Exchange staff of all written materials provided to listing companies would help to ensure that information provided by specialist units is not false, misleading, or ambiguous, we note that specialists are still under a duty to ensure that their statements, both oral and written, are not misleading or false. In light of the NYSE's representations that appropriate regulatory action will be taken in the event that any problems are discovered, the Commission believes that it is reasonable for the NYSE to initially start with a random review by Exchange staff of written material provided to listing companies by specialist units after the allocation process has been completed.[19] If such reviews disclose problems with communications, we would expect the NYSE to consider replacing its review process with a more comprehensive one to be conducted prior to the allocation.

In addition, the NYSE represents that all interviews between specialist units and listing companies will continue to be attended by staff of the Exchange's Listing Department. Moreover, members of the Exchange's Regulatory staff will randomly attend interviews for two listings each month and conduct meetings with members of the Exchange's Listings staff to educate them on regulatory issues. The Commission believes that the proposed procedures, without placing too great of an administrative burden on the Exchange's Regulatory staff, should ensure that any specialist units making inappropriate remarks to listing companies at interviews will be subject to appropriate regulatory action.

Third, the Commission notes, as described above, that the proposal would change the requirements for listing company letters submitted to the Allocation Committee. Instead of requiring such letters to describe the desired characteristics of the specialist unit, the Policy would be amended to require such letters to contain detailed information regarding the background and operations of the listing company and its industry. The Commission agrees with the NYSE that specific information about the listing company may better assist the Allocation Committee in selecting the appropriate specialist unit(s). The Policy also will continue to prohibit the listing company from identifying a specific specialist unit in its letter to the Allocation Committee. These requirements together should ensure that the Allocation Committee will be able to select the most qualified units based on the allocation criteria. Accordingly, the Commission finds that the proposed provisions relating to the company's letter are consistent with the Act.

Fourth, the Commission notes that the proposal would generally relax the time frames during which a listing company must meet with and select a specialist unit from the group of units selected by the Allocation Committee. The proposed rule allows the listing company to meet with the selected group of specialist units' representatives by the close of business on the last Exchange business day of the week in which the selection of the group was made, rather than within two business days. In addition, the Policy is being changed to permit the listing company to select its specialist unit as soon as practicable, as opposed to within one business day, following its meeting with representatives of the specialist units.[20] The NYSE has represented that most Allocation Committee meetings occur on Mondays.[21] Accordingly, for most allocations, listing companies will have more time to meet (a total of five business days between Monday and Friday, rather than two) and select their specialist unit. The Commission further notes that should compelling circumstances prevent the required meetings within the established time frames, the proposal grants the Exchange discretion to permit telephone interviews for domestic listing companies.[22] Otherwise, the proposal would permit telephone interviews solely for non-U.S. listing companies. The Commission believes that the proposed time frames are reasonable and should allow, in most cases, sufficient opportunity for specialist units to prepare for the interviews and for listing companies to arrange to meet with representatives of the selected specialist units.

Fifth, the Commission believes that the Exchange's deletion of the proposed sentence in the Policy inviting a listing company to include in its letter to the Allocation Committee its preference not to be traded by specialist units trading competitors' stock is appropriate and consistent with the Act. The Commission believes that the existence of the provision would serve only to encourage the expression of such preferences and consequently, to unnecessarily limit the pool of specialist units to be selected by the Allocation Committee. In addition, the Commission does not believe there is any regulatory reason to prohibit a specialist unit from trading competitors' stock. Indeed, a specialist's market making expertise in a certain industry may actually prove to be a benefit to a listing company. Although the Policy will not prohibit listing companies from expressing such preferences in letters to the Allocation Committee, the Commission believes that the absence of the provision in the Exchange's Policy should enhance competition among specialist units to the benefit of both listing companies and the Exchange.

Sixth, the proposal allows the Allocation Committee to select an alternate unit in cases in which only three units are selected to be interviewed. The Commission recognizes that based on the established time frames, situations may arise in which either the listing company or a particular specialist unit cannot meet at the appointed time. Accordingly, the Commission believes that when only three specialist units are selected by the Allocation Committee, the selection of an alternate unit to be interviewed by the listing company is reasonable and will ensure an adequate pool from which to select a specialist.

Finally, the Commission believes that the NYSE's proposal to allow a listing company that is a spin-off of or related to a listed company to choose to stay with the specialist unit for the related company is reasonable because of the relationship between the spun-off company and the former company. The proposal also requires the Allocation Committee to honor the spin-off company's request not to be allocated to the specialist unit that had traded the related company's stock. The Commission recognizes that both allowing the spin-off company to stay with the original specialist unit and barring the original specialist unit from receiving the listing does raise some concerns about ensuring that all specialist units will be allowed to

[18] *See* Amendment No. 1, *supra* note 4.

[19] Regulatory action which the NYSE could consider would include reallocation of the stock.

[20] As noted above, under the amended Policy, if a listing company meets with any of its specialist units on the last Exchange business day of the week, it must make its decision on that day.

[21] Telephone conversation between Donald Siemer, Director, Rule Development, NYSE, and Deborah Flynn, Attorney, Division, Commission, on November 3, 1997.

[22] The Exchange stated in its filing that in-person interviews have shown to be more effective. Accordingly, telephone interviews generally are not permitted unless the NYSE approves of it for compelling circumstances. The Exchange has stated that compelling circumstances would include bad weather, which may severely hamper a listing company's ability to attend a scheduled interview. Telephone conversation between Donald Siemer, Director, Rule Development, NYSE, and Deborah Flynn, Attorney, Division, Commission, on November 3, 1997.

compete for the allocation on an equal basis. Nonetheless, the Commission believes that there may be legitimate reasons why an unlisted company may want to remain with the related company's specialist unit or may believe it is more appropriate to be allocated to a new specialist unit rather than the one that has dealings with the related company. For the same reasons, the Commission believes that the provisions which allow a listing company to choose Option 2 and request that the Allocation Committee include or exclude the specialist unit registered in the related listed stock are reasonable. Accordingly, the Commission finds these provisions are consistent with the Act.

The Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** The Commission notes that Amendment No. 1 further clarifies the process by which listings are allocated to specialist units and raises no new regulatory issues. Specifically, Amendment No. 1 interprets the Policy's provisions relating to interviews between listing companies and specialist units, written materials provided to listing companies by specialist units, and specialist units' contact with listing companies during the six month period prior to the solicitation of allocation applications and helps to strengthen the proposal and ensure compliance with the Policy. Regarding the deletion of the proposal to permit listing companies to state their preference not to be traded by units trading competitors' stock, the Commission notes that the elimination of this provision, which would have further restricted the pool of specialist units to be allocated a particular listing, raises no issues of regulatory concern. Finally, the Commission notes that no comments were received on the publication of the proposal or at the time of the approval and subsequent extensions of the pilot program. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) of the Act,[23] to approve Amendment No. 1 to the NYSE's proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of all such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–97–30 and should be submitted by February 18, 1998.

V. Conclusion

The Commission believes that the Exchange's amended pilot program, which allow greater listing company input, has been crafted to ensure that allocation decisions continue to be based primarily on specialist performance and objective criteria. In addition, the Commission believes that the procedures adopted by the NYSE in the Policy will help to identify, minimize and penalize potential conflicts arising out of the relationships between specialist units and listing companies and ensure the continued integrity of the allocation process. Based on this, we believe the permanent approval of Option 2, along with the amendments to the Policy, are reasonable and consistent with the requirements of the Act applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act[24] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSE–97–30), including Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1974 Filed 1–27–98; 8:45 am]

BILLING CODE 8010–01–M

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f.

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Application for Airport Grant Funds Under the Airport Improvement Program (AIP) for Fiscal Year 1998

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces May 1, 1998, as the deadline for having on file with the FAA an acceptable application for airport grant funds under the AIP for fiscal year 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: Section 47105(f) of Title 49, United States Code, provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for passenger and cargo entitlement funds. Notification of the sponsor's intent to apply during fiscal year 1998 for any of its entitlement funds, including those unused from prior years, shall be in the form of a project application (SF 424) submitted to the FAA field office no later than May 1, 1998.

This notice is promulgated to expedite and prioritize grants in the final quarter of the fiscal year. Absent an acceptable application by May 1, FAA intends to defer an airport's entitlement funds until the next fiscal year.

Issued in Washington, DC, January 22, 1998.

Stan Lou,

Manager, Programming Branch.

[FR Doc. 98–2015 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 1997, there were seven applications approved. This notice also includes information on two

applications, approved in November 1997, inadvertently left off the November 1997 notice. Additionally, six approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Lawton/Lawton Municipal Airport Authority, Lawton, Oklahoma.

Application Number: 97–02–C–00–LAW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $393,200.

Earliest Charge Effective Date: January 1, 1998.

Estimated Charge Expiration Date: March 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Relocate guidance signs.
Correct ponding on runway 17/35.
Commute-a-walk system.
Conduct ecological study.
Correct structural problems with aircraft rescue and firefighting (ARFF) station and snow plow bay.

Decision Date: November 7, 1997.

For Further Information Contact: Ben Cuttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Central Wisconsin Joint Airport Board acting on behalf of the Counties of Marathon and Portage, Mosinee, Wisconsin.

Application Number: 97–03–C–00–CWA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,529,500.

Earliest Charge Effective Date: November 1, 2012.

Estimated Charge Expiration Date: November 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: On-demand air taxi operators operating aircraft with less than 20 seats.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Central Wisconsin Airport.

Brief Description of Project Approved for Collection and Use: Runway 17/35 and taxiway extension.

Decision Date: November 18, 1997.

For Further Information Contact: Nancy M. Nistler, Minneapolis Airports District Office, (612) 713–4361.

Public Agency: Bloomington-Normal Airport Authority, Bloomington, Illinois.

Application Number: 97–02–C–00–BMI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,752,503.

Earliest Charge Effective Date: December 1, 2010.

Estimated Charge Expiration Date: November 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Central Illinois Regional Airport.

Brief Description of Projects Approved for Collection and Use: PFC program development.

Runway 20 Federal Aviation Regulation Part 150 land acquisition.
Terminal building addition.
Terminal jetway facility.
Mobile air stairs.
Extend runway 2/20 600 feet.
Purchase airfield deicing truck.
Purchase two commutal walks.
Expand auto parking facility.
Baggage claim improvements.
Passenger lift device.

Brief Description of Project Approved for Collection Only: Construct new terminal development area.

Decision Date: December 5, 1997.

For Further Information Contact: Denis Rewerts, Chicago Airports District Office, (847) 294–7195.

Public Agency: Luzerne and Lackawanna Counties Bi-County Board of Commissioners, Avoca, Pennsylvania (Wilkes-Barre/Scranton Airport).

Application Number: 97–02–U–00–AVP.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $3,312,694.

Charge Effective Date: December 1, 1993/December 1, 1997.

Estimated Charge Expiration Date: March 1, 2000.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use:

Design passenger terminal.
Design passenger terminal apron.
Design ARFF building.
Construct parallel taxiway—runway 10/28.
Construct ARFF building.
Construct phase I—air cargo apron.

Decision Date: December 10, 1997.

For Further Information Contact: John Carter, Harrisburg Airports District Office, (717) 782–4548.

Public Agency: Greater Orlando Aviation Authority, Orlando, Florida.

Application Number: 98–05–C–00–MCO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $231,750,000.

Earliest Charge Effective Date: June 1, 1998.

Estimated Charge Expiration Date: April 1, 2005.

Class of Air Carriers Not Required to Collect PFC's: None

Brief Description of Projects Approved for Collection and Use at Orlando International Airport (MCO):

Replace four additional high mast light poles.
North crossfield taxiway construction.
Upgrade ARFF vehicle Crash-84 and replace ARFF vehicle Crash-82.
Loop road taper improvement.
Airside 2—final design and construction.

Brief Description of Projects Approved for Collection at MCO and Use at Orlando Executive Airport:

West quadrant improvements (phase III C).
Construct Taxiway C–2 and fillet joiner.
Rehabilitate north west quadrant ramp.
Parallel taxiway west of runway 13/31.
Replace direct buried airfield lights.
Rehabilitate runway 13/31 and pave taxiway shoulders.

Decision Date: December 11, 1997.

For Further Information Contact: Vernon Rupinta, Orlando Airports District Office, (407) 812–6331, extension 24.

Public Agency: Houghton County Memorial Airport Committee, Hancock, Michigan.

Application Number: 97–05–C–00–CMX.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $71,634.

Earliest Charge Effective Date: January 1, 1998.

Estimated Charge Expiration Date: July 1, 1999.

Estimated Charge Expiration Date: July 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Houghton County Memorial Airport.

Brief Description of Projects Approved for Collection and Use:

Construct security fence (phase I).
Rehabilitate high intensity runway lighting—runway 13/31.
General aviation apron expansion—200 feet by 600-fee.
Sanitary sewer upgrade—phase I lift station.
Terminal building heating, ventilating, and air conditioning system rehabilitation.
Snow removal equipment (front end loader).
Rehabilitate runway 13/31/ engineering only.

Brief Description of Project Approved in Part for Collection and Use: Reimbursement of charges for PFC application preparation.

Determination: Partially approved. The public agency requested reimbursement for costs associated with both the 95–03–U–00–CMX and 96–04–C–00–CMX applications. However, the public agency was previously reimbursed for consultant services for the 95–03–U–00–CMX application under the 96–04–C–00–CMX approval. Cost overruns for the 95–03–U–00–CMX have been determined to not be eligible. Therefore, the approval for this project was limited to costs associated the 96–04–C–00–CMX application.

Decision Date: December 16, 1997.

For Further Information Contact: Jon Gilbert, Detroit Airports District Office, (313) 487–7281.

Public Agency: City of Manchester, New Hampshire.

Application Number: 97–05–C–00–MHT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,331,162.

Earliest Charge Effective Date: February 1, 1998.

Estimated Charge Expiration Date: October 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at the airport's main passenger terminal building and (2) enplane less than 200 passengers per year at the airport.

Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Manchester Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment.
Construct two remote aircraft parking aprons.

Brief Description of Project Withdrawn: Acquire snow removal equipment storage building.

Determination: This project was withdrawn by the public agency by letter dated December 3, 1997. Therefore, the FAA did not rule on this project in this decision.

Decision Date: December 17, 1997.

For Further Information Contact: Priscilla Scott, New England Region Airports Division, (617) 238–7614.

Public Agency: Dallas/Fort Worth International Airport Board, Dallas/Fort Worth, Texas.

Application Number: 97–03–C–00–DFW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $249,093,427.

Earliest Charge Effective Date: October 1, 1998.

Estimated Charge Expiration Date: September 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators operating under a certificate authorizing transport of passengers for hire under Part 135 that file FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Dallas/Fort Worth International Airport.

Brief Description of Projects Approved for Collection and Use:

High speed exits E3 and M3 and cross taxiways EL and WL.
Runway 17C ARFF road realignment.
Taxilane 23 (west support).
ARFF vehicles.
Drainage rehabilitation—diagonal runways.
Replace airfield concrete slabs taxiways 18, 19, and G.
Rehabilitate Carbon Road.
West Airfield Drive improvements.
Industrial waste system study.
East Airfield Drive extension.
West air freight (west 18th Street) improvements.
Terminal 4E apron rehabilitation.
Drainage/rehabilitation of runway 17R/35L.
Conduct final environmental impact statement revalidation on runway 16/34.
Conduct airport pavement conditions study.

Brief Description of Projects Approved in Part for Collection and Use: Terminal 2W–A, gate expansion, renovation, and associated development.

Determination: Approved in part. Project elements such as ramp services areas, flight services areas, flight operations areas, and airline employee office space have been identified as ineligible through an FAA analysis and have been excluded from the amount approved for collection and use. In addition, costs associated with other items such as mechanical rooms, electrical rooms, wire closets, and facilities maintenance rooms have been prorated based on the eligible area of the terminal.

General aviation and 3W hardstand relocation.

Relocation: Approved in part. The portion of the project for the in-kind replacement of the general aviation terminal is limited in eligibility to the estimated cost to demolish and remove the existing building, minus any salvage value in accordance with paragraph 595(a) of FAA Order 5100.38A, AIP Handbook (October 24, 1989).

Brief Description of Project Approved for Collection Only: Runway 16/34, west development.

Brief Description of Projects Disapproved: Fiber optics communication system.

Determination: Disapproved. This project was determined to exceed the requirements necessary to serve the security system mandated by Part 107.14. Therefore, this project is ineligible in accordance with paragraph 563 of FAA Order 5100.38A, AIP Handbook (October 24, 1989).

Terminal 2E/3E graphics.

Determination: Disapproved. This project was determined to benefit terminals which are leased on a long-term, exclusive use basis. Therefore, this project is ineligible in accordance with Part 158, Appendix A(5).

Decision Date: December 18, 1997.

For Further Information Contact: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: City of Manchester, New Hampshire.

Application Number: 98–06–U–00–MHT.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $1,626,000.

Charge Effective Date: January 1, 1993.

Estimated Charge Expiration Date: October 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use: Upgrade runway 6/24.

Decision Date: December 30, 1997.

For Further Information Contact: Priscilla Scott, New England Region Airports Division, (617) 238–7614.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge expiration date	Amended estimated charge expiration date
96–02–C–02–DFW, Dallas/Forth Worth, TX	10/16/97	$96,803,051	$97,530,051	05/01/98	05/01/98
97–02–C–01–LAW, Lawton, OK	12/11/97	393,200	405,200	03/01/00	04/01/00
92–01–C–03–MHT, Manchester, NH	12/18/97	5,679,523	4,394,523	09/01/97	10/01/98
96–02–U–01–MHT, Manchester, NH	12/18/97	1,100,000	1,400,000	09/01/97	10/01/98
96–03–U–01–MHT, Manchester, NH	12/18/97	177,000	0	09/01/97	10/01/98
94–01–C–01–ICT, Wichita, KS	12/24/97	4,259,535	4,468,400	11/01/97	11/01/97

Issued in Washington, DC., on January 20, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–2014 Filed 1–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Senior Executive Service; Departmental Performance Review Board

AGENCY: Treasury Department.

ACTION: Notice of members of the Departmental Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Departmental PRB. The purpose of this PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of SES positions for which the Secretary or Deputy Secretary is the appointing authority. These positions include SES bureau heads, deputy bureau heads and certain other positions. The Board will perform PRB functions for other key bureau positions if requested.

COMPOSITION OF DEPARTMENTAL PRB: The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. The names and titles of the PRB members are as follows:

Nancy Killefer, Assistant Secretary for Management and Chief Financial Officer—Chairperson

Kay Frances Dolan, Deputy Assistant Secretary (Human Resources)

John P. Simpson, Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement)

Alex Rodriguez, Deputy Assistant Secretary (Administration)

William H. Gillers, Project Coordinator, Bureau of Engraving and Printing

James E. Johnson, Assistant Secretary (Enforcement)

David A. Lebryk, Assistant Fiscal Assistant Secretary

Margrethe Lundsager, Deputy Assistant Secretary (Trade & Investment Policy)

Mary E. Chaves, Director, Office of International Debt Policy

Jane L. Sullivan, Director, Office of Information Resources Management

Joan Affleck-Smith, Director, Office of Financial Institutions Policy

John W. Magaw, Director, Bureau of Alcohol, Tobacco and Firearms

Samuel H. Banks, Deputy Commissioner, U.S. Customs Service

Vincette L. Goerl, Assistant Commissioner (Finance)/CFO, U.S. Customs Service

Douglas M. Browning, Assistant Commissioner (International Affairs), U.S. Customs Service

Lewis C. Merletti, Director, U.S. Secret Service

W. Ralph Basham, Assistant Director, Administration, U.S. Secret Service

John P. Mitchell, Deputy Director, U.S. Mint

Richard B. Calahan, Deputy Inspector General

Richard L. Gregg, Acting Commissioner, Financial Management Service

Thomas A. Ferguson, Acting Director, Bureau of Engraving and Printing

Michael P. Dolan, Deputy Commissioner, Internal Revenue Service

David A. Mader, Chief Officer, Management and Administration, Internal Revenue Service

Frederick V. Zeck, Acting Commissioner, Bureau of the Public Debt

Kenneth R. Schmalzbach, Assistant General Counsel (General Law & Ethics)

Roberta K. McInerney, Assistant General Counsel (Banking & Finance)

DATES: Membership is effective January 28, 1998.

FOR FURTHER INFORMATION CONTACT: Ronald A. Glaser, Department of the Treasury, Acting Director, Office of Personnel Policy, Annex Building, Room 4150, Pennsylvania Avenue at Madison Place, N.W., Washington, DC 20220, Telephone: (202) 622–1890.

This notice does not meet the Department's criteria for significant regulations.

Ronald A. Glaser,

Acting Director, Office of Personnel Policy.

[FR Doc. 98–2052 Filed 1–27–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

TECRO/AIT Carnet Issuing and Guaranteeing Association

AGENCY: Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice informs the public that Customs has selected the United States Council for International Business as the organization which will issue and guarantee TECRO/AIT carnets. These carnets are being issued pursuant to the TECRO/AIT Carnet Agreement which has been entered into between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT) for the temporary admission of goods,

commercial samples and professional equipment.

FOR FURTHER INFORMATION CONTACT: William Scopa, Office of Field Operations 202–927–3112.

SUPPLEMENTARY INFORMATION:

Background

This notice advises the public that the United States Council for International Business has been selected as the issuing and guaranteeing organization for a new carnet, known as the ''TECRO/AIT Carnet''. This carnet is being offered as a result of the signing of a bilateral carnet agreement between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT) for the temporary admission of goods, commercial samples and professional equipment. In a final rule also published in this issue of the **Federal Register**, Customs is amending its regulations which apply to carnets to reflect this new agreement.

A carnet is an international customs document, backed by an internationally valid guarantee, which may be used for the temporary admission of merchandise. The carnet is used in place of the usual national customs documentation and guarantees the payment of duties (including taxes) which may become due if the requirements of the carnet are not satisfied.

Taiwan is currently ineligible to accede to the ATA Carnet Convention, under which carnets facilitate trade among more than fifty contracting parties. Thus, Taiwan has sought access to the carnet facility through the recently concluded TECRO/AIT Carnet Agreement. This agreement was negotiated pursuant to the authority contained in 22 U.S.C. 3305.

On November 4, 1996, a Notice was published in the **Federal Register** (61 FR 56740) in which the Customs Service informed the public of the TECRO/AIT carnet and solicited applications for an organization to issue and guarantee the new carnet.

The issuing association must be approved by the Commissioner of Customs. The guaranteeing association is jointly and severally liable with the carnet holder for the payment of the sums. The guaranteeing association also must be approved by the Commissioner of Customs.

Pursuant to § 114.11, Customs Regulations (19 CFR 114.11), an association, in order to be approved by Customs, must provide in writing that it will undertake to perform the functions and fulfill the obligations specified in the Agreement to which the United States accedes.

Based upon the information received from the United States Council for International Business, the Commissioner of Customs has determined that the United States Council for International Business satisfies the conditions to be designated an issuing and guaranteeing organization for the TECRO/AIT Carnet.

Dated: July 15, 1997.

Editorial note: This document was received by the Office of the Federal Register on January 22, 1998.

George J. Weise,

Commissioner of Customs.

[FR Doc. 98–1951 Filed 1–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Application and Renewal Fees Imposed on Surety Companies and Reinsuring Companies; Increase in Fees Imposed

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

SUMMARY: Effective December 31, 1997, The Department of the Treasury, Financial Management Service, is increasing the fees it imposes on and collects from surety companies and reinsuring companies.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch, (202) 874–6765.

SUPPLEMENTARY INFORMATION: The fees imposed and collected, as referred to in 31 CFR 223.22, cover the costs incurred by the Government for services performed relative to qualifying corporate sureties to write Federal business. These fees are determined in accordance with the Office of Management and Budget Circular A–25, as amended. The increase in fees is the result of a thorough analysis of costs associated with the Surety Bond Branch.

The new fee rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds—$3,900.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority—$2,300.

(3) Examination of a company's application for recognition as an Admitted Reinsurer (except on excess risks running to the United States)—$1,385.

(4) Determination of a company's continued qualification for annual renewal of its authority as an Admitted Reinsurer—$975.

Questions concerning this notice should be directed to the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Hyattsville, MD 20782, Telephone (202) 874–6850.

Dated: January 16, 1998.

Charles F. Schwan III,

Acting, Assistant Commissioner, Financial Information, Financial Management Service.

[FR Doc. 98–1977 Filed 1–27–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 67 (Rev. 24)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authority to sign the name of, or on behalf of, Charles O. Rossotti, Commissioner of Internal Revenue. The text of the delegation order appears below.

EFFECTIVE DATE: November 13, 1997.

FOR FURTHER INFORMATION CONTACT: Ronald Ridgley, Chief, Office of Organizational Research, M:SP:A, Room 401, 1255 22nd Street, NW, Washington, D.C. 20037, (202) 874–4479 (not a toll-free call).

Delegation Order No. 67 (Rev. 24)

Effective: November 13, 1997.

Signing the Commissioner's Name or on the Commissioner's Behalf

Authority: To sign the name of, or on behalf of Charles O. Rossotti, Commissioner of Internal Revenue.

Delegated to: Persons with existing authority to sign the name or, or on behalf of, Michael P. Dolan, Acting Commissioner of Internal Revenue.

Redelegation: This authority may not be redelegated.

Source of Authority: Treasury Order 150–10.

This order is effective 11:00 a.m., November 13, 1997, and supersedes Delegation Order 67 (Rev. 23), effective May 26, 1997.

Dated: January 21, 1998.

Charles O. Rossotti,

Commissioner.

[FR Doc. 98–1948 Filed 1–27–98; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 63, No. 18

Wednesday, January 28, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97-127-1]

Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products

Correction

In rule document 98–266 beginning on page 406, in the issue of Tuesday, January 6, 1998, make the following corrections:

§ 94.18 [Corrected]

1. On page 408, in the second column, in § 94.18(a)(2), in the sixth line, ''and'' should read ''an''.

2. On page 408, in the second column, in § 94.18(a)(3), in the second line ''considers'' should read ''consider'' and in the fifth line, after ''forth'' insert ''in''.

3. On page 408, in the third column, in § 94.18(b), in the fourth line, ''ruminant'' should read ''ruminants''.

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Public Notice of Availability of the Draft Supplemental Environmental Impact Statement for the Limited Reevaluation Study for the Deepening of the Arthur Kill-Howland Hook Marine Terminal Navigation Channels

Correction

In notice document 98–1488 beginning on page 3311, in the issue of Thursday, January 22, 1998, make the following correction:

On page 3312, in the first column, in the second line, ''not'' should read ''now''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, FL

Correction

In notice document 98–1498 beginning on page 3388, in the issue of Thursday, January 22, 1998, make the following correction:

On page 3388, in the third column, under the heading **DATES:**, ''January 23, 1998.'' should read ''February 23, 1998.''

BILLING CODE 1505-01-D

Federal Register

Wednesday
January 28, 1998

Part II

Department of Agriculture

Forest Service

36 CFR Part 212

Administration of the Forest Development Transportation System: Management Regulations Revision and Temporary Suspension of Road Construction in Roadless Areas; Proposed Rules

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 212

RIN AB–67–0095

Administration of the Forest Development Transportation System

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Forest Service proposes to revise the regulations concerning the management of the National Forest System transportation system to address changes in how the road system is developed, used, maintained, and funded. The existing road system on National Forest System lands was largely funded and constructed to develop areas for timber harvesting and the development of other resources. In the last two decades, interest in the appropriate uses of the resources of the national forests, as well as the costs associated with resource development, including road-building, has generated much public debate. At the same time, resource uses on the national forests have shifted substantially toward recreation. The agency believes this is an appropriate time to consider changes in public opinion, public demand, and public use of national forest resources in the context of the accumulated body of scientific information about the benefits and environmental impacts of roads, and to consider adjustments in the management of the forest road system to respond to these changes and, thus, better serve present and future management objectives in a more efficient manner. Public comments on the scope and nature of a proposed revision of the Forest Services road management policy are invited. The agency will consider all comments in developing the proposed rule.

DATES: Comments must be received in writing by March 30, 1998.

ADDRESSES: Send written comments to: Gerald (Skip) Coghlan, Acting Director, Engineering Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, and also at roads/wo@fs.fed.us on the Internet.

All comments, including names and addresses when provided, are available for public inspection and copying. Persons wishing to inspect the comments are encouraged to call ahead (202–205–1400) to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Gerald (Skip) Coghlan, Acting Director, Engineering Staff, 202–205–1400.

SUPPLEMENTARY INFORMATION:

Background

The road system on National Forest System lands is extensive and diverse. It includes an estimated 373,000 miles of inventoried forest system roads. These roads are essential for the active management of the resources of the National Forests. They carry an estimated 9,000 Forest Service administrative vehicles daily throughout the forests to duties as varied as wildlife habitat improvement projects, maintenance of recreation facilities, fire suppression, law enforcement, and search and rescue activities. National Forest System roads also carry an estimated 15,000 vehicles daily that are associated with timber harvesting and the development of other resources.

Roads are also essential for public use and enjoyment of the National Forests and Grasslands. The agency estimates that 1.7 million vehicles involved in recreation travel forest roads every day, an increase of over 10 times since 1950.

In addition to the 373,000 miles of inventoried system roads, there are 60,000 miles of roads which exist on National Forest System lands, created by repeated public use, that are not managed or maintained by the agency or considered part of the forest road system.

Public use and demands on national forest resources have shifted considerably during the past 10 years. There has been a decrease in timber harvesting and other commodity uses and steadily-increasing growth in the amount and type of recreation uses. The shift in public use and associated changes in user expectations and access needs requires new approaches to deciding the appropriate size and configuration of the road system. In addition, current funding mechanisms and levels are not adequate to maintain roads to the standards originally planned, to assure minimum ecological impacts, as well as to ensure efficient and safe use. Thus, the agency needs to explore new sources of dependable funding as well as ways to better manage roads with limited resources.

The accumulation of new scientific information is increasing the understanding of the ecological and social impacts of existing roads, new construction of roads in roaded and roadless areas, and the impacts of the management activities associated with maintaining and reconstructing roads. New developments in road-building technology have fewer negative ecological impacts; however, ecological impacts from existing roads are more extensive than previously thought. For example, under some conditions, existing roads may cause increased frequency of flooding and landslides, increased stream sedimentation, and associated reductions in fish habitat productivity. There may also be concerns associated with the fragmentation and degradation of habitat for some wildlife species caused by roading, as well as reductions in travel corridors of species with large home ranges. Research also indicates that under some circumstances, roading may begin or accelerate the invasion of exotic plant species that ultimately displace native species.

In addition to the impacts of road-building and roads themselves, there are impacts associated with the increased levels of human activities in previously-inaccessible areas provided by new roads. For example, increases in visitor-use have associated resource impacts, including ground and habitat disturbance, increased pressure on wildlife species from hunters and fishers, and increased expectations for amenities. Also, increases in human access may be associated with increases in the frequency of person-caused fires. A more detailed listing of facts related to the nature and scope of the National Forest Road System, public demand, funding, and environmental impacts of roads are published as Appendix A at the end of this notice.

Rulemaking Objectives

The shifts in resource demands and public use coupled with the need to ensure that decisions associated with the location, design, construction, reconstruction, upgrading, decommissioning, and maintenance of roads are informed by current scientific information lead the Forest Service to conclude that it must thoroughly review its road management policy and develop a comprehensive science-based policy for the future. This policy should allow the Forest Service to balance scientific information, public needs and funding levels when determining the size, purpose, and extent of the future forest road transportation system and any specific road building activities. The following are among the expected outcomes and key features of such a long-range policy:

1. Roads will be removed where they are no longer needed, and ecological values will be rehabilitated and restored in formerly-roaded areas. These outcomes will be accomplished by aggressively decommissioning unneeded roads to reduce adverse environmental impacts.

2. Roads most heavily used by the public will be safe and will promote efficient travel. These outcomes will be accomplished by aggressively updating roads (reconstruction, design and maintenance) and reducing environmental impacts in these areas.

3. New roads that are determined necessary for National Forest System management will be designed more carefully to minimize ecological damage, and limited funds will be spent appropriately. These outcomes will be achieved by carefully analyzing factors surrounding the decision to build new roads in roaded areas, as well as the decision to build new roads in roadless areas, to assure that managers make more informed decisions and that only necessary construction is taking place.

The agency invites comments and suggestions on procedures for improving management of the national forest road system.

Agency Actions

Several research efforts are underway to examine the National Forest road system and its uses; to synthesize scientific information on Forest Service roads; and to analyze attitudes toward roads as expressed in the news media. Drafts of these reports are available from Director, Pacific Northwest Research Station, P.O. Box 3890, Portland, OR 97208–3890, 503–808–2100 and also at pnw/r6pnw@fs.fed.us on the Internet.

An essential element of this comprehensive overhaul of forest road policy is to develop improved analytical tools for land managers and resource specialists. To that end, agency researchers and specialists are developing an improved analysis process that assures that the ecological, social, and economic impacts of proposed construction and reconstruction of National Forest System roads are objectively evaluated, and that there is a full consideration of public demand on National Forest System roads in the context of current scientific information. This process will undergo an independent technical and scientific peer review before adoption.

Until the effects of roads can be more rigorously assessed, the Forest Service is also proposing to issue an interim rule to temporarily suspend road construction and reconstruction in roadless areas for not more than 18 months. The proposed interim rule appears in the same separate part of today's **Federal Register** with a request for public comment and notice of the initiation of scoping under the National Environmental Policy Act of 1969.

Suggestions on the scope and nature of a proposed revision of the Forest Service's road management policy, as well as comments on the agency's preliminary suggestions are invited. The agency will consider all comments in developing the proposed rule.

Dated: January 22, 1998.

Mike Dombeck,

Chief, Forest Service.

Appendix A—Facts About the National Forest Road System

1. The National Forest Road System is extensive and diverse; it includes an estimated 373,000 miles of forest roads.

a. One-fourth (23%) are called arterial or collector roads and they serve all users, including passenger cars.

b. Over one-half (57%) are roads that are only passable by high-clearance vehicles such as four-wheel drives.

c. One-fifth (20%) are closed by gates.

d. The Forest Service has identified an additional estimated 60,000 miles of ''uninventoried roads'' that were created by repeated use but never build or maintained to any standards. The actual number of miles of ''uninventoried roads'' is likely far greater than this estimate. There are also additional public roads on National Forest System lands, such as state and county roads that are typically maintained by others.

e. There are more than 7,000 bridges on forest roads, three-fourths of these are on the arterial and collector roads.

f. In 1996, new construction of National Forest System roads was 434 miles, or 0.1% of the total National Forest road system.

2. Roads are essential for public use and enjoyment of National Forests and Grasslands.

a. An estimated 15,000 logging trucks and vehicles associated with timber harvesting use National Forest roads each day, about the same number as in 1950.

b. An estimated 1.7 million vehicles associated with recreation activities travel forest roads each day, over 10 times more than in 1950. Recreation usage is projected to continue to increase.

c. An estimated 9,000 Forest Service administrative vehicles travel forest roads each day, conducting duties essential to the stewardship of forest resources, including special use administration, wildlife habitat improvement projects, maintenance and operation of recreation facilities, law enforcement, and fire suppression.

3. Public use and demands on National Forest System lands have shifted considerably during the past 10 years. The size and composition of the National Forest System road system has not been adjusted accordingly.

a. Recreation usage has increased from less than 250 million Recreation Visitor Days to almost 350 million and is projected to continue to increase.

b. Timber harvest has dropped to below 4 billion board feet from a high of about 12 billion board feet annually.

c. The need for, and understanding of, ecological benefits that these forest and rangelands provide has increased, such as clean water, wildlife habitat, and habitat for endangered species.

4. While a significant portion of the 191,000,000 acres of the National Forest System is roaded, a significant portion remains roadless.

a. An estimated 34,000,000 acres are currently designated as wilderness; an estimated 6,000,000 acres are designated as proposed wilderness in forest plans.

b. An estimated 33,000,000 acres are currently unroaded in blocks of 5,000 acres or more for which the existing forest plans have proposed management that could include building new roads.

c. Of the 33,000,000 acres that are unroaded and available for management activities that could include roading, an estimated 8,000,000 acres are classified as ''suitable for timber production.

5. Current funding levels are inadequate to maintain the roads to planned standards that permit efficient and safe use and keep ecological impacts at acceptably low levels.

a. About 40% of National Forest System roads are fully maintained to the planned safety and environmental standards for which they were designed.

b. The backlog of reconstruction needs on National Forest System roads is considerable. For example, the backlog on arterial and collector roads alone is estimated to be over $10 million, due to their age (three-fourths are over 50 years old) and their lack of adequate regular maintenance.

c. From 1991 to 1996, funding for decommissioning roads has only financed a reduction of about 0.5% of National Forest System roads per year.

6. New scientific information continues to increase our understanding of the ecological and social impacts from existing roads and associated management activities. In some instances, ecological impacts from existing roads are more extensive than previously thought. Examples of these impacts include: increased frequency of flooding and landslides; increased stream sedimentation and associated reduction in fish habitat productivity; increased habitat fragmentation and degradation which reduce the travel corridors needed by species requiring large home ranges; increased frequency of person-caused fires as a result of access; and invasion of exotic species that displace native species. In contrast, recently constructed roads that are better designed and better located than earlier roads, and result in fewer and less severe ecological impacts.

[FR Doc. 98–1907 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 212

RIN AB–68–0095

Administration of the Forest Development Transportation System: Temporary Suspension of Road Construction in Roadless Areas

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed interim rule; request for comment.

SUMMARY: In an Advanced Notice of Proposed Rulemaking (ANPR) published elsewhere in today's **Federal Register** the Forest Service has announced its intentions to revise its management of the National Forest Road System. In concert with that ANPR, the Forest Service proposes to suspend temporarily road construction and reconstruction in most roadless areas of the National Forest System. The intended effect is to safeguard the significant ecological values of roadless areas from potentially adverse effects associated with road construction, while new and improved analytical tools are developed to evaluate the impact of locating and constructing roads. The temporary suspension of road construction and reconstruction would expire upon the application of the new and improved analysis tools or 18 months, whichever is sooner. This rulemaking is a component of a larger effort to address a number of National Forest System transportation issues. Public comment is invited and will be considered in adoption of an interim rule.

DATES: Comments are due by February 27, 1998.

ADDRESSES: Send written comments to Director, Ecosystem Management Coordination Staff, MAIL STOP 1104, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090. Comments also may be sent via the Internet to roads/wo@fs.fed.us.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying at the Forest Service National Headquarters Offices, 14th and Independence Avenue SW, Washington, D.C. Persons wishing to inspect the comments are encouraged to call ahead (202–205–0895) to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Gerald (Skip) Coghlan, Engineering Staff, 202–205–1400 or Rhey Solomon, Ecosystem Management Coordination Staff, 202–205–0939.

SUPPLEMENTARY INFORMATION: This proposed interim rule is being published in association with an Advance Notice of Proposed Rulemaking (ANPR) published elsewhere in this separate part in today's **Federal Register**. In the ANPR, the Forest Service is giving notice of its intention to revise the regulations concerning the management of the National Forest System transportation system to address changes in how the road system is developed, used, maintained, and funded. As part of the ANPR, the agency also indicates that the development of improved scientific and analytical tools for land managers and resource specialists is an essential element of the comprehensive overhaul of forest road policy.

As noted in the ANPR, the road system on the National Forest System is extensive and diverse. It includes an estimated 373,000 miles of forest system roads. Roads are essential for the active management of the resources of the National Forests and Grasslands. These roads also are essential for public use and enjoyment of the National Forest System.

In addition, the agency estimates that there are more than 60,000 miles of roads created by repeated public use of the National Forests and Grasslands. Although these roads occur on National Forest System lands, they are not planned, managed or maintained by the agency or considered part of the forest road system.

A growing body of scientific information demonstrates that road construction in sensitive areas, such as roadless areas, may cause the introduction of exotic plant species, disrupt wildlife habitat, and otherwise compromise the attributes that make roadless areas ecologically important and often unique. Roadless areas are often aquatic strongholds for fish of great recreational and commercial value. These areas also often provide critical habitat and migration routes for many wildlife species, and they are particularly important for those species requiring large home ranges, such as the grizzly bear and the wolf.

The effects of road construction may persist for decades. Many of the remaining areas with the National Forest System are in areas with steep slopes that surround headwater streams. Road construction increases the risk of erosion, landslides, and slope failure, which may compromise critically important water quality. Until new and improved analytical tools can be developed and implemented to evaluate the positive benefits and adverse impacts of roads, the adoption of an interim rule to temporarily suspend road construction or reconstruction within National Forest System roadless areas is viewed as critical to preserve land and resource management options.

Draft Proposed Interim Rule

The agency proposes to temporarily suspend road construction activities, including the construction of temporary roads on National Forest System roadless areas, through issuance of an interim rule to a new § 212.13 of Part 212 of Title 36 of the Code of Federal Regulations. Specifically, the interim rule would apply the temporary suspension to roadless areas of 5,000 acres or more inventoried in RARE II (Roadless Area Review and Evaluation) and other unroaded areas, regardless of size, identified in a forest plan; unroaded areas greater than 1,000 acres contiguous to Congressionally-designated Wilderness or contiguous to federally-administered components of the National Wild and Scenic Rivers System that are classified as ''Wild''; and all unroaded areas greater than 1,000 acres contiguous to roadless areas of 5,000 acres or more on other federal lands. In addition, the suspension would apply to two other categories: (1) any National Forest System (NFS) area of low-density road development or (2) any other NFS area that retains its roadless characteristics which the Regional Forester subsequently determines have such special and unique ecological characteristics or social values that no road construction or reconstruction should proceed. The agency does not anticipate that Regional Foresters will create a new inventory of roadless areas that meet the criteria of these latter two categories. Rather, it is expected that Regional Foresters will apply these categories on a project-by-project basis. Examples of areas that might be considered under these latter categories are areas needed to protect the values of municipal watersheds, including public drinking water sources, or to provide habitat for listed or proposed endangered and threatened fish, wildlife, or plants. Another example might be the National Forest System roadless areas listed in Table 5.1 of the Southern Appalachian Area Assessment, Social/Cultural/Economic Technical Report, Report 4 of 5, July 1996.

The suspension would remain in effect until any suspended road construction could be evaluated using the new analytical tools that are being developed, but no longer than 18 months from the effective date of the interim rule.

The proposed interim rule would expressly exempt four categories of roadless areas from the temporary suspension of road construction and reconstruction:

1. Roadless areas within National Forests that have a signed Record of Decision revising their forest plans and have completed the administrative appeal process as of the effective date of the rule.

2. Roadless areas within National Forests that have a signed Record of

Decision revising their forest plans on which the administrative appeal process is underway, but not completed as of the effective date of the rule.

3. Roadless areas in Washington, Oregon, and California within those portions of National Forests encompassed by the Northwest Forest Plan; and

4. Road construction or reconstruction in roadless areas needed for public safety or to ensure access to private lands pursuant to statute or outstanding and reserved rights.

The exemptions for final revised forest plans and for the Northwest Forest Plan recognize the currency of the scientific information, evaluations, public participation, and decisions made in these plans and the need to minimize disruption in programs of work. The proposed interim rule also recognizes the necessity to ensure public safety and access to private property. The exemption for revised plans currently under appeal also honors exiting decisionmaking and administrative appeal processes and seeks to avoid undue interruptions or interference with established planning processes. We specifically request comment on whether additional measures are needed to implement exemption (b)(2).

The proposed interim rule would not modify, suspend, or cause to be re-examined any existing permit, contract, or other instrument authorizing occupancy and use of the National Forest System, any land and resource management plan, any land allocation decision, or other management activity or use within roadless areas in which road construction or reconstruction are temporarily suspended. The intent is not to halt active management of roadless areas but to protect their values while improved analytical tools are developed to better assess the impacts of road construction on roadless area values.

Regulatory Impact

Under the proposed interim rule, some currently planned land management projects that are dependent on new road construction, such as timber sales and ecosystem restoration activities, may not be implemented in the timeframe currently planned. During the interim period, some projects may proceed in an altered form and some may be postponed until such time that the road assessment process is implemented. Those projects may eventually be altered as a result of new information provided by the forest road assessment process. It is difficult to estimate with precision the costs and benefits associated with deferring projects due to considerable variation in site-specific factors; the fact that projects are in various stages of development and readiness to execute; the fact that planning and analysis often take much longer to complete than originally anticipated; and the fact that some project work can be shifted to other sites outside roadless areas.

Nationwide, the agency estimates that of the total 3.8 billion board feet planned for FY 1998, the volume of timber actually offered for sale will be reduced by 100–275 million board feet. Although the actual amounts are very difficult to estimate, this reduction in timber volume offered could lead to corresponding reductions in employment and in payments to states. It is expected that the Intermountain and Northern Regions of the National Forest System will experience a disproportionately higher effect from the suspension than other geographic regions of the country, due to the higher dependence on roadless areas for timber production in these regions.

While the delay in these projects will have some adverse economic impact in the short term, these impacts are offset by the benefits to be gained from the temporary suspension of road construction and reconstruction in these areas. The benefits would include the prevention of an increased risk of erosion, landslides, and slope failure, all of which may compromise critically important water quality in the headwater streams that are found in many of the covered roadless areas. The temporary suspension would also help to prevent introduction of exotic plant species into these areas. The development of a new road analysis process would also allow currently proposed and future projects requiring road construction to reflect current scientific information and resource use trends. This will help managers and the public better understand the consequences of locating and building roads in roadless areas.

This proposed interim rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is a significant rule because of the importance of road policy issues. While this proposed interim measure would create some costs associated with temporarily suspending actions on road construction or reconstruction, the suspension is limited to roadless areas and some low-density roaded areas and is temporary, not to exceed 18 months. This proposed interim rule will not have an annual effect of $100 million or more on the economy nor have a significant adverse effect on productivity, competition, jobs, the environment, public health or safety, nor State or local governments. Accordingly, this proposed interim rule has been reviewed by OMB under Executive Order 12866.

Moreover, this proposed interim rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this proposed interim rule on State, local, and tribal governments and the private sector. This proposed interim rule does not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this proposed interim rule falls within this category of actions. Nevertheless, in furtherance of the purposes of the National Environmental Policy Act, the agency has elected to undertake environmental analysis and documentation prior to publication of the final interim rule. As part of the agency scoping under its NEPA procedures, public comment is invited.

No Takings Implications

This proposed interim rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed interim rule does not pose the risk of taking of Constitutionally-protected private property. There are no Constitutionally-protected private property rights to be affected, since the proposed interim rule applies only to federal lands and explicitly ensures access to private property pursuant to statute or to outstanding or reserved rights.

Civil Justice Reform Act

This proposed interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed interim rule (1) preempts all State and local laws and regulations that are in conflict or which would impede its full implementation, (2) has no retroactive effect on existing permits, contracts, or other instruments authorizing the occupancy and use of the National Forest System, and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

This proposed interim rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 212

Highways and roads, National forests, Rights-of-way, and Transportation.

Therefore, the Forest Service proposes an interim rule amending 36 CFR part 212 as follows:

PART 212—ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

1. The authority citation for part 212 continues to read as follows:

Authority: Sec. 1, 30 Stat. 35, as amended sec. 205, 72 Stat. 907; 16 U.S.C. 551, 23 U.S.C. 205, unless otherwise noted.

2. Add a new § 212.13 to read as follows:

§ 212.13 Temporary suspension of road construction in roadless areas.

(a) *Suspensions.* Except as provided in paragraphs (b) and (c) of this section, new road construction projects, including temporary roads, and road reconstruction projects are suspended within the following areas of the National Forest System:

(1) ALL RARE II inventoried roadless areas of 5,000 acres or more within the National Forest System and all other roadless areas, regardless of size, identified in a land and resource management plan;

(2) All National Forest System roadless areas greater than 1,000 acres that are contiguous to Congressionally-designated Wilderness Areas or that are contiguous to federally-administered components of the National Wild and Scenic River System (16 U.S.C. 1274) which are classified as Wild;

(3) All National Forest System roadless areas greater than 1,000 acres that are contiguous to roadless areas of 5,000 acres or more on other federal lands;

(4) Any National Forest System area, regardless of size, with low-density road development that essentially retains its roadless characteristics on which the Regional Forester subsequently determines that road construction or reconstruction should not proceed, because of the area's special and unique ecological characteristics or social values; and

(5) Any other National Forest System area, regardless of size, that essentially retains its roadless characteristics on which the Regional Forester subsequently determines that road construction or reconstruction should not proceed, because of the area's special and unique ecological characteristics or social values.

(b) *Exemptions.* Road construction and reconstruction projects within the following roadless areas are exempt from the suspension required by paragraph (a) of this section:

(1) Roadless areas within National Forests that have a signed Record of Decision revising their land and resource management plans prepared pursuant to the National Forest Management Act (16 U.S.C. 1604(f)(5)) on which the administrative appeals process under 36 CFR Part 217 has been completed as of the effective date of the final interim rule;

(2) Roadless areas within a National Forest that has a signed Record of Decision revising the land and resource management plan prepared pursuant to the National Forest Management Act (16 U.S.C. 1604(f)(5)) on which the administrative appeals process under 36 CFR Part 217 is underway as of the effective date of the final interim rule. (For these forests, issues related to the construction of roads in roadless areas will be addressed in the appeal decision, when appropriate.);

(3) Roadless areas within National Forest System lands in Washington, Oregon, and California, that are encompassed by the Northwest Forest Plan which is described in the ''Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, April 13, 1994;'' and

(4) Road construction or reconstruction in roadless areas needed for public safety or to ensure access provided by statute or provided pursuant to reserved or outstanding private rights.

(c) *Scope and applicability.* (1) This section does not suspend or modify any existing permit, contract, or other instrument authorizing the occupancy and use of National Forest System land. Additionally, this section does not suspend or modify any existing National Forest System land allocation decision, nor is this section intended to suspend or otherwise affect other management activities or uses within roadless areas in which road construction or reconstruction projects are suspended pursuant to paragraph (a) of this section.

(2) The suspensions provided by paragraph (a) of this section remain in effect until any suspended road construction in roadless areas can be evaluated using new analytical tools, or 18 months, which ever is first.

(d) *Effective date.* The suspension of road construction and reconstruction projects in roadless areas as provided in paragraph (a) of this section is effective upon the date of publication of the final interim rule.

Dated: January 22, 1998.

Mike Dombeck,

Chief, Forest Service.

[FR Doc. 98–1906 Filed 1–27–98; 8:45 am]

BILLING CODE 3410–11–M

Federal Register

Wednesday
January 28, 1998

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 571

Fines and Costs for ''Old Law'' Inmates; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 571

[BOP–1033–F]

RIN 1120–AA29

Fines and Costs for ''Old Law'' Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations on fines, or fines and costs, ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987. The amended regulations conform with 18 U.S.C. 3569, requiring a United States Magistrate Judge to determine whether an inmate is indigent, for the purpose of determining the inmate's ability to pay a committed fine, or fine and costs. This statutory authority previously had included the Warden as a determining official. In accordance with delegated authority by the Attorney General, final determination as to the retention by the inmate of property in excess of that which is by law exempt from being taken on civil process is to be made by the appropriate United States Attorney. Bureau regulations previously had designated the Regional Director as the determining official.

EFFECTIVE DATE: January 28, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on fines and costs (28 CFR part 571, subpart F). A final rule on this subject was published in the **Federal Register** on October 21, 1983 (48 FR 48971).

These amendments conform Bureau regulations to reflect 18 U.S.C. 3569 which, as revised and still applicable to offenses committed before November 1, 1987, specifies a U.S. Magistrate Judge in the district where the inmate is imprisoned as the official responsible for determining whether an inmate is indigent for the purpose of determining the inmate's ability to pay a committed fine, or fine and costs. Previously, this statute had also authorized the Warden as a determining official. These amendments also conform to delegated authority (28 CFR 0.171(g)) from the Attorney General to United States Attorneys regarding findings on retention by the inmate of property in excess of that which is by law exempt from being taken on civil process for debt. A discussion of the specific changes follows.

In § 571.50, the introductory paragraph and paragraph (a) are revised to identify clearly the applicability of the regulations. There is no change in the intent of these paragraphs. Paragraph (b) is amended to remove references to the Warden and the Regional Director as determining officials, to include reference to the United States Attorneys, and to remove unnecessary explanatory information.

In § 571.51, paragraph (b) has been revised for editorial purposes. There is no change in the intent of this paragraph.

In § 571.52, paragraphs (a) and (b) have been revised for editorial purposes. There is no change in the intent of these paragraphs. Paragraph (c) has been amended to remove a reference to the Warden as a determining official.

Former § 571.53 has been removed. Removal of this provision is necessary because the Warden no longer has the authority to determine an inmate's ability to pay his or her fine or fine and costs. Former § 571.56 has also been removed, because the final determination as to the retention of property which is reasonably necessary for the inmate's support or that of his or her family has been delegated by the Attorney General to United States Attorneys.

The material in §§ 571.54 and 571.55 has been redesignated and revised as new §§ 571.53 and 571.54.

New § 571.53 restates material formerly in old § 571.54. Paragraph (a) is revised to specify that an inmate must apply to the U.S. Magistrate Judge in the district where the inmate is incarcerated to determine whether the inmate is indigent for the purpose of determining the inmate's ability to pay his or her fine, or fine and costs. As revised, paragraph (b) removes the condition of a determination of non-indigency by the Warden before an inmate may elect to apply to the U.S. Magistrate Judge. This paragraph still directs institution staff to offer to send all forms and information to the U.S. Magistrate Judge for the inmate. Paragraph (c) has been revised for editorial purposes. There is no change in the intent of this paragraph. Paragraph (d) has been revised to include reference to the United States Attorney as a determining official.

New § 571.54 restates material in old § 571.55. Paragraphs (a), (b) and (c) have been revised for editorial purposes. There is no change in the intent of these paragraphs. A new paragraph (d) is added parallel the provisions in new § 571.53(d) for forwarding a referral package to the appropriate United States Attorney subsequent to a finding of non-indigency.

Because these changes impose no new restrictions on inmates and either conform to statutory requirements, other delegated authority, or are administrative in nature, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant economic impact on a substantial number of small entities, within the definition of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 571

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 571 in subchapter D of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

1. The authority citation for 28 CFR part 571 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166, and 4201–4218 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date),

5031–5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 0.95–0.99, 1.1–1.10.

2. § 571.50 is revised to read as follows:

§ 571.50 Purpose and scope.

This subpart establishes procedures for processing a fine, or fine and costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987. When the court orders a prisoner's confinement until payment of a fine, or fine and costs under 18 U.S.C. 3565, the Bureau of Prisons shall confine that inmate until the fine, or fine and costs are paid, unless the inmate qualifies for release under 18 U.S.C. 3569.

(a) An inmate held on the sole basis of his/her inability to pay such fine, or fine and costs, and whose non-exempt property does not exceed $20.00 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

(b) Under 18 U.S.C. 3569, the determination of indigency may be made by a U.S. Magistrate Judge. Where the U.S. Magistrate Judge makes a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine, or fine and costs, staff shall refer the application to the appropriate United States Attorney for the purpose of making a final decision on the inmate's discharge under 18 U.S.C. 3569. It is to be noted that 18 U.S.C. 3569 provides for confining an inmate for nonpayment of a committed fine, or fine and costs.

3. In § 571.51, the concluding text is removed and paragraph (b) is revised as follows:

§ 571.51 Definitions.

* * * * *

(b) *Costs*—Monetary costs of the legal proceeding which the court may levy. Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.

* * * * *

4. § 571.52 is revised to read as follows:

§ 571.52 Procedures—committed fines.

(a)(1) Promptly after the inmate's commitment, staff shall inform the inmate that there is a committed fine, or fine and costs on file, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine, or fine and costs is paid, except—

(i) The inmate may spend money from his/her trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authorized for such purchases.

(ii) Staff may authorize the inmate to make withdrawals from his/her trust fund account for emergency family, emergency personal needs or furlough purposes.

(2) This rule of impounding an inmate's trust fund account applies only when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or a contract community-based facility.

(b) If the inmate pays the committed fine, or fine and costs, or staff have verified payment, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) Staff shall interview the inmate with an unpaid committed fine at least 75 days prior to the inmate's release date. Staff shall explain to the inmate that to secure release without paying the committed fine, or fine and costs in full, the inmate must make an application, on the appropriate form, to the U.S. Magistrate Judge for determination as to whether the inmate can be declared indigent under 18 U.S.C. 3569.

§§ 571.53 and 571.56 [Removed]

5. §§ 571.53 and 571.56 are removed.

6. §§ 571.54, 571.55 are redesignated as new §§ 571.53 and 571.54 and revised as follows:

§ 571.53 Determination of indigency by U.S. Magistrate—inmates in federal institutions.

(a) An inmate with a committed fine, or fine and costs who is imprisoned in a federal institution may make application for a determination of indigency directly to the U.S. Magistrate Judge in the district where the inmate is imprisoned under 18 U.S.C. 3569.

(b) After completion of the application, staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate Judge.

(c) If the U.S. Magistrate Judge finds that the inmate is indigent, the U.S. Magistrate Judge will administer the oath to the inmate. The inmate shall be released no earlier than the regularly established release date.

(d) If the U.S. Magistrate Judge finds that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

§ 571.54 Determination of indigency by U.S. Magistrate Judge—inmates in contract community-based facilities or state institutions.

(a) Inmates with a committed fine, or fine and costs may be transferred to contract community-based facilities, state institutions as boarders, or state institutions for service of federal sentences running concurrently with state sentences.

(b) Inmates with a committed fine, or fine and costs may be committed directly to contract community-based facilities or state institutions as boarders or may be designated to state institutions for service of federal sentences running concurrently with state sentences.

(c) An inmate with a committed fine, or fine and costs who is imprisoned in a contract community-based facility or state institution and desires to make application for a determination of ability to pay the committed fine, or fine and costs under 18 U.S.C. 3569 may make application directly to the U.S. Magistrate Judge.

(d) Upon receipt of a finding by the U.S. Magistrate Judge that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

[FR Doc. 98–2091 Filed 1–27–98; 8:45 am]

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Federal Register

Wednesday
January 28, 1998

Part IV

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: Allocation of 1998 Essential Use Allowances; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5953–6]

RIN 2060–AG48

Protection of Stratospheric Ozone: Allocation of 1998 Essential Use Allowances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: With this action, EPA allocates essential-use allowances for the 1998 control period. The United States nominated specific uses of ozone-depleting substances (ODS) as essential uses for 1998 under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The Parties to the Protocol subsequently approved production and import of ODS for the uses nominated by the United States in the quantities specified. In today's action, EPA allocates essential use allowances based on the quantities approved by the Parties for the nominated uses. Essential use allowances permit a person to obtain controlled ozone-depleting substances as an exemption to the January 1, 1996 regulatory phaseout of production and import. Essential use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose.

DATES: This action is effective January 28, 1998. EPA will consider all written comments received by February 27, 1998, to determine if any change to this action is necessary.

ADDRESSES: Comments on and materials supporting this interim final rule are collected in Air Docket No. A–92–13, U.S. Environmental Protection Agency, 401 M Street, SW., Room M–1500, Washington, DC 20460. The Docket is located in room M–1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 am until 4 pm Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact Tom Land, EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460, (Docket # A–92–13), (202)–564–9185.

FOR FURTHER INFORMATION CONTACT: Tom Land, EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460, (202)–564–9185 or The Stratospheric Ozone Hotline at (800)–296–1996.

SUPPLEMENTARY INFORMATION:

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I. Background

The Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) sets specific deadlines for the phaseout of production and importation of ozone depleting substances (ODS). At their Fourth Meeting in 1992, the signatories to the Protocol (the Parties) amended the Protocol to allow exemptions to the phaseout for uses agreed by the Parties to be essential. At the same Meeting, the Parties also adopted Decision IV/25, which established both criteria for determining whether a specific use should be approved as essential and a process for the Parties to use in making such a determination.

The criteria for an essential use as set forth in Decision IV/25 are the following:

''(1) that a use of a controlled substance should qualify as 'essential' only if:

(i) it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and

(ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health;

(2) that production and consumption, if any, of a controlled substance for essential uses should be permitted only if:

(i) all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and

(ii) the controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances.''

Decision IV/25 also sets out the procedural steps for implementing this process. It first calls for individual Parties to nominate essential uses. These nominations are then to be evaluated by the Protocol's Technology and Economic Assessment Panel (TEAP or the Panel) which makes recommendations to representatives of all Protocol Parties. The final decision on which nominations to approve is to be taken by a meeting of the Parties.

The initial cycle of implementing this Decision has been completed in the context of halons which were phased out of production at the end of 1993. This initial timetable separated nominations for halons from those for other ozone-depleting substances. EPA issued a **Federal Register** notice requesting nominations for essential uses of halons (February 2, 1993; 58 FR 6786). In response, the Agency received over ten nominations, but was able to work with applicants to resolve their near-term requirements. As a result, the U.S. did not nominate any uses for continued halon production in 1994. About a dozen other nations put forth nominations which were reviewed by the Technical and Economic Assessment Panel. Because the Panel determined that in each case alternatives existed or that the existing supply of banked halons was adequate to meet near-term needs, it did not recommend approval of any of the nominations. In November of 1993, at the Fifth Meeting, the Parties unanimously adopted the recommendation of the Panel not to approve any essential uses for the production or consumption of halons in 1994.

EPA issued a second notice for essential use nominations for halons on October 18, 1993 (58 FR 53722). These nominations covered possible production of halons in 1995 for essential uses. In response to this inquiry, EPA received no nominations.

Only one nomination (from France) was received by the TEAP for production and consumption of halons for an essential use in 1995. The TEAP did not recommend approval of this nomination.

EPA also issued a **Federal Register** notice requesting nominations for essential use applications which would need to continue beyond the 1996 phaseout of consumption and production allowances for CFCs, methyl chloroform, carbon tetrachloride, and hydrobromofluorocarbons (May 20, 1993, 58 FR 29410). EPA received 20 applications in response to this notice. For several of these applications, EPA determined that the criteria contained in Decision IV/25 had not been satisfied. For example, two applications sought CFCs for servicing existing air-conditioning equipment. EPA rejected these applications on the basis that if all

economically feasible steps were taken prior to the 1996 phaseout, then adequate supplies of banked and recycled CFCs should be available. However, in rejecting these nominations, the United States noted that servicing existing air-conditioning and refrigeration equipment remains a major challenge to the successful transition from the use of CFCs and that a future nomination in this area might be necessary if a combination of retrofits, replacements, recycling, recovery at disposal, and banking do not adequately address these needs.

Of the responses to the **Federal Register** request for essential use applications, the United States submitted essential use nominations to the Protocol Secretariat for the following uses of CFCs: metered dose inhalers and other selected medical applications; a bonding agent for the Space Shuttle; aerosol wasp killers; limited use in a specified bonding agent and polymer application; and a generic application for laboratory uses under specified limitations. (Letter from Pomerance to UNEP, September 27, 1993).

Nominations from the U.S. and other countries for over 200 specific uses were submitted to the Montreal Protocol Secretariat and provided to the Technical and Economic Assessment Panel for review. In March 1994, the Panel issued the ''1994 Report of the Technology and Economic Assessment Panel.'' The Report includes the Panel's recommendations for essential-use production and consumption exemptions. The Panel recommended that essential use exemptions be granted for nominations of: Methyl chloroform in solvent bonding for the Space Shuttle; CFCs used in metered dose inhalers; and specific controlled substances needed for laboratory and analytical applications. For each of the other nominations submitted, the TEAP determined that one or more of the criteria for evaluating an essential use had not been satisfied. For example, in the case of several of the U.S. nominations, the report states that alternatives are available and therefore the essential use exemption is not warranted.

In every year since 1994, the Parties have reviewed recommendations by the Technology and Economic Assessment Panel and made final decisions on essential use authorizations. Today's action follows decisions taken by the Parties after considering recommendations by the TEAP in 1996 and 1997.

In 1993, the Parties to the Protocol modified the timetable for submission of essential use nominations to combine both halons and all the other class I controlled substances (except methyl bromide) and to reduce the overall length of time between nomination and decision. According to Decision V/18, essential use nominations for halon consumption and production for 1995 and beyond, and essential use nominations for all the other class I controlled substances (except methyl bromide) for 1997 and beyond, must be submitted to the Secretariat prior to January 1st of the year prior to the year for which production and consumption is being sought. The Parties again revised the timetable for essential use nominations in Decision VIII/9 requiring submission by 31 January in the year in which decisions would be taken for subsequent years. EPA revised the domestic schedule accordingly so a **Federal Register** notice calling for essential use applications for class I controlled substances for future years is published prior to the Protocol deadline for submission to the Ozone Secretariat.

Decision V/18 directed the Technology and Economic Assessment Panel to develop a ''handbook on essential use nominations'' (Handbook). The July 1994 Handbook contained forms and instructions for how to apply for an essential-use exemption. Subsequent decisions by the Parties to the Protocol created additional criteria for essential use authorizations now reflected in the August 1997 Handbook. The Handbook may be obtained from the Stratospheric Protection Division, U.S. Environmental Protection Agency or the Ozone Secretariat of the Montreal Protocol in Nairobi.

II. Allocation of 1998 Essential Use Allowances

In today's action, EPA is allocating essential use allowances for the 1998 control period to the entities listed in Table I for exempted production or import of the specific quantity of class I controlled substances solely for the specified essential use.

TABLE I.—ESSENTIAL USES AGREED TO BY THE PARTIES TO THE PROTOCOL FOR 1998 AND ESSENTIAL USE ALLOWANCES

Company/entity	Class I controlled substance	Quantity (metric tonnes)
(i) Metered Dose Inhalers for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
International Pharmaceutical Aerosol Consortium (IPAC)—Abbott Laboratories, Armstrong Laboratories, Boehringer Ingelheim, Glaxo Wellcome, 3M, Rhone Poulenc Rorer, Schering-Plough Corporation.	CFC–11	1043.6
	CFC–12	2512.2
	CFC–114	338.0
Medisol	CFC–11	78.0
	CFC–12	132.0
	CFC–114	11.0
Aeropharm	CFC–11	83.0
	CFC–12	166.7
(ii) Cleaning, Bonding and Surface Activation Applications for the Space Shuttle Rockets and Titan Rockets		
National Aeronautics and Space Administration (NASA)/Thiokol Rocket	Methyl Chloroform	56.7
United States Air Force/Titan Rocket	Methyl Chloroform	3.4
(iii) Laboratory and Analytical Applications		
Global Exemption (Restrictions in Appendix G Apply)	All Class I Controlled Substances (except Group VI).	No [1]

[1] No quantity specified.

The International Pharmaceutical Aerosol Consortium (IPAC) consolidated requests for an essential use exemption to be nominated to the Protocol as an agent of its member companies for administrative convenience. By means of a confidential letter to each of the companies listed above, EPA will allocate essential-use allowances separately to each company in the amount requested by it for the nomination.

Applications submitted by these companies requested class I controlled substances for uses claimed to be essential during the 1998 control period. The applications provided information in accordance with the criteria set forth in Decision VI/25 of the Protocol and the procedures outlined in the ''Handbook on Essential Use Nominations.'' The applications request exemptions for the production and import of specific quantities of specific class I controlled substances after the phaseout as set forth in 40 CFR 82.4. The applications were reviewed by the U.S. government and nominated to the Protocol Secretariat for analysis by the Technical and Economic Assessment Panel (TEAP) and its Technical Option Committees (TOCs). The Parties to the Montreal Protocol approved the U.S. nominations for essential-use exemptions during meetings in 1995 and 1996. In today's action essential-use allowances are allocated to United States entities based on nominations decided upon by the Parties to the Protocol.

The 1998 global essential use exemption for analytical and laboratory applications published in today's rule imposes strict requirements both in § 82.13 and in Appendix G of this subpart. The restrictions for the global laboratory and analytical essential use exemption listed in Appendix G include requirements regarding purity of the class I controlled substances and the size of the containers. In addition, there are detailed reporting requirements in § 82.13 for persons that take advantage of the global laboratory and analytical essential-use exemption for class I controlled substances. The strict requirements are established because the Parties to the Protocol, and today's rule, do not specify a quantity of essential use allowances permitted for analytical and laboratory applications, but establish a global essential-use exemption, without a named recipient.

Any person obtaining class I controlled substances after the phaseout under the essential use exemptions published in today's rule is subject to all the restrictions and requirements in other sections of 40 CFR part 82, subpart A. Holders of essential-use allowances or persons obtaining class I controlled substances under the essential-use exemptions must comply with the recordkeeping and reporting requirements in § 82.13 of this subpart and the restrictions in Appendix G of this subpart.

Section 307(d) of the Clean Air Act Amendments of 1990 (CAA or the Act) states that in the case of any rule to which section 307(d) applies, notice of proposed rulemaking must be published in the **Federal Register** (CAA 307(d)(3)). The promulgation or revision of regulations under title VI of the CAA (relating to stratospheric ozone protection) is generally subject to section 307(d). However, section 307(d) does not apply to any rule referred to in subparagraphs (A) or (B) of section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 551 et seq.

APA section 553(b) requires that any rule to which it applies be issued only after the public has received notice of, and an opportunity to comment on, the rule. However, APA section 553(b)(B) exempts from those requirements any rule for which the issuing agency for good cause finds that providing prior notice-and-comment would be impracticable, unnecessary or contrary to the public interest. Thus, any rule for which EPA makes such a finding is exempt from the notice-and-comment requirements of both APA section 553(b) and CAA section 307(d).

EPA believes that the circumstances presented here provide good cause to take this action without prior notice and comment. EPA finds that providing prior notice and comment would be impracticable and contrary to the public interest because the ozone-depleting substances need to be available to the listed entities in 1998 for the health and safety of society as defined in the Protocol essential use criteria. The allocation of essential-use allowances for CFCs to the manufacturers of metered-dose inhalers will ensure the availability of treatment in order to protect the health of U.S. patients with asthma and chronic obstructive pulmonary disease. The allocation of essential-use allowances for methyl chloroform for the manufacture of the Thiokol/Space Shuttle Rockets and the Titan Rockets will provide a guarantee of safety from explosions that are unacceptable risks to both national programs.

Nonetheless, EPA is providing 30 days for submission of public comments following today's action. EPA will consider all written comments submitted in the allotted time period to determine if any change to this action is necessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, APA section 553(d)(1) excepts from this provision any action that grants or recognizes an exemption or relieves a restriction. Since today's action grants an exemption from the phaseout of production and consumption of most class I ozone-depleting substances, EPA is making this action immediately effective to ensure the availability of ozone-depleting substances for essential uses during the 1998 control period.

III. Additional Changes in the Essential Use Process To Be Published in Subsequent Proposed Rulemaking

EPA will be publishing a Notice of Proposed Rulemaking that includes changes to the essential-use provisions published in the **Federal Register** on May 10, 1995. One of the proposals will be a simplification of the process for allocating essential-use allowances by providing that allowances will be allocated through a Notice published in the **Federal Register** rather than through a Final Rulemaking. EPA will propose allocating essential-use allowances according to the quantities approved by the Parties to the Protocol for which applications were submitted to the U.S. government. EPA will be seeking comments on a simplification of the current allocation process.

EPA will also be proposing changes to the reporting requirements for holders of essential-use allowances in the subsequent Notice of Proposed Rulemaking. EPA will propose changes to the reporting requirements to allow the U.S. to gather information in accordance with Decision VIII/9, paragraph 9. Under the reporting format associated with Decision VIII/9, paragraph 9, Parties to the Protocol are requested to report data regarding essential uses, including inventories of CFCs, quantities of CFCs imported and produced for essential uses, the amount of CFCs that are actually filled into metered-dose inhalers, and stockpiles of CFCs remaining at the end of a control period.

IV. Summary of Supporting Analysis

A. Unfunded Mandates Reform Act and Regulatory Flexibility Act

Since this action is not subject to notice-and-comment rulemaking requirements under the APA or any other law, it is also not subject to sections 202, 204 or 205 of the

Unfunded Mandates Reform Act (UMRA). In addition, since this action does not impose annual costs of $100 million or more on small governments or uniquely affect small governments, the Agency has no obligations under section 203 of UMRA. Moreover, since this action is not subject to notice-and-comment requirements under the APA or any other statute as stated above, it is not subject to section 603 or 604 of the Regulatory Flexibility Act.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by EPA that this rule is not a ''significant regulatory action'' within the meaning of the Executive Order.

C. Paperwork Reduction Act

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) previously approved the information collection requirements contained in the final rule promulgated on May 10, 1995, and assigned OMB control number 2060–0170 (EPA ICR No. 1432.16).

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.

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.

D. Executive Order 12875

Today's action does not impose any unfunded mandate upon any State, local, or tribal government; therefore, Executive Order 12875 does not apply to this rulemaking.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Ozone layer, Reporting and recordkeeping requirements.

Dated: January 16, 1998.

Carol M. Browner,

Administrator.

40 CFR part 82 is to be amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

2. Section 82.4(r)(2) is amended by revising the table to read as follows:

§ 82.4 Prohibitions.

* * * * *

(r) * * *

(2) * * *

TABLE I.—ESSENTIAL USES AGREED TO BY THE PARTIES TO THE PROTOCOL FOR 1998 AND ESSENTIAL USE ALLOWANCES

Company/entity	Class I controlled substance	Quantity (metric tonnes)
(i) Metered Dose Inhalers for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
International Pharmaceutical Aerosol Consortium (IPAC) [1]—Abbott Laboratories, Armstrong Laboratories, Boehringer Ingelheim, Glaxo Wellcome, 3M, Rhone Poulenc Rorer, Schering—Plough Corporation.	CFC–11	1043.6
	CFC–12	2512.2
	CFC–114	338.0
Medisol	CFC–11	78.0
	CFC–12	132.0
	CFC–114	11.0
Aeropharm	CFC–11	83.0
	CFC–12	166.7
(ii) Cleaning, Bonding and Surface Activation Applications for the Space Shuttle Rockets and Titan Rockets		
National Aeronautics and Space Administration (NASA)/Thiokol Rocket	Methyl Chloroform	56.7
United States Air Force/Titan Rocket	Methyl Chloroform	3.4

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Company/entity	Class I controlled substance	Quantity (metric tonnes)
(iii) Laboratory and Analytical Applications		
Global Exemption (Restrictions in Appendix G Apply)	All Class I Controlled Substances (except Group VI).	([2])

[1] IPAC consolidated requests for an essential use exemption to be nominated to the Protocol as an agent of its member companies for administrative convenience. By means of a confidential letter to each of the companies listed above, EPA will allocate essential-use allowances separately to each company in the amount requested by it for the nomination.
[2] No quantity specified.

* * * * *

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The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

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