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Wednesday
September 18, 1991

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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.

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WHEN: September 26, at 9:00 am
WHERE: Denver Federal Center, Building 20
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1-800-359-3997

WASHINGTON, DC

WHEN: September 30, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
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Presidential Documents

Title 3–

The President

Proclamation 6336 of September 13, 1991

Energy Awareness Month, 1991

By the President of the United States of America

A Proclamation

Meeting our Nation's future energy needs is a task of immense proportions—and utmost importance. To some American motorists, this challenge might be symbolized by long lines for gasoline and high prices at the pump. To others, it might be symbolized by lowering the thermostat during winter months. However, when it comes to building a secure energy future for the United States, there is more at stake than meets the eye. Safe, reliable, and affordable sources of energy are vital not only to our personal mobility and comfort but also to our Nation's productivity and security. America's utility companies and other energy providers supply the light, heat, and power that are needed to operate our factories and farms, our schools and defense installations, and other places of work.

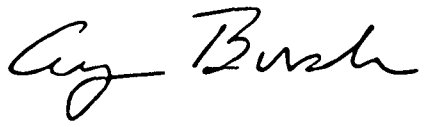
Continuing instability and conflict in some regions of the world underscore the need to use energy efficiently; to reduce our dependence on insecure sources of energy; and to develop more energy resources. Of course, we must skillfully balance efforts in these areas with our determination to maintain a growing economy. We must also balance them with our commitment to a cleaner, healthier environment.

Our comprehensive National Energy Strategy calls for the wise and effective development of all of our Nation's energy resources, including coal, natural gas, and nuclear energy, as well as hydroelectric power and other forms of renewable energy. It also calls for the development of new technology for oil and gas exploration; increased use of alternative fuels; and aggressive conservation efforts.

This month, the United States Department of Energy will be working to promote public awareness of our Nation's energy needs and the energy options that are available to us. With strong leadership at all levels of government—and with the sustained cooperation of business, industry, energy providers, and concerned consumers—we can implement the sound energy policies and practices that are essential to America's well-being.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 1991 as Energy Awareness Month. I urge all Americans to observe this month with appropriate educational programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-22584
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation
7 CFR Parts 1405, 1421 and 1435
Sugar

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On June 11, 1991, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the Sugar Price Support Program which is conducted by CCC in accordance with section 206 of The Agricultural Act of 1949, as amended (the 1949 Act). This rule is necessary in order to implement changes made by section 901 of the Food, Agriculture, Conservation and Trade Act of 1990 (the 1990 Act) to authorize the Price Support Program for the 1991 through 1995 crops of sugarcane and sugar beets. In addition, this final rule sets forth at 7 CFR part 1421, 1991 price support rates for wheat, feed grains, rice, and oilseeds, and also amends 7 CFR part 1405 with respect to the mediation of CCC Farm Facility Program loans.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: David Wolf, Program Specialist, Cotton, Grain, and Rice Price Support Division (CGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA) P.O. Box 2415, Washington, DC Telephone (202) 447-4704.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and it has been determined to be "major" because these program provisions will result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. A regulatory impact analysis is available from the previously mentioned contact.

The title and number of the federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this notice applies is Commodity Loans and Purchases—10.051.

It has been determined that the Regulatory Flexibility Act is not applicable because the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that the program will have no significant impact on the quality of the human environment.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, and 48 FR 29115 (June 24, 1983).

Public reporting burden for the information collections contained in this regulation with respect to the sugar price support program is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information collection has previously been cleared by OMB, and assigned number 0560-0087.

7 CFR Part 1435

A proposed rule was published in the **Federal Register** on June 11, 1991, at 56 FR 26777 which would amend the regulations found at 7 CFR part 1435 with respect to the price support program for 1991 through 1995 crops of sugarcane and sugar beets which is conducted by CCC. The proposed rule provided a 15-day public comment period which ended July 11, 1991.

Discussion of Comments

Twenty-one respondents commented on the proposal to provide that a processor shall obtain and file in the county office, lien waivers to protect the interests of CCC. The intent of this provision was to, in essence, treat sugar the same as all other commodities which receive price support from CCC. All of the respondents believed that this provision should be eliminated, citing that it would be virtually impossible for a processor to obtain a price support loan because lending institutions will not agree to waive their lien on any sugar obtained from sugarcane or sugar beets produced by the borrowers or on the proceeds of the sale of sugar. Some respondents believed that all sugar delivered to the processor must be free and clear of all encumbrances. However, the intent of the proposed rule was to only require waivers for any sugar pledged as collateral for loan and not for all sugar derived from sugar beets or sugarcane delivered to the processor. Accordingly, after reviewing the comments received, it has been determined that § 1435.9(c) will be amended to clarify that waivers are only necessary on that quantity of sugar pledged as collateral for loan if such sugar is otherwise encumbered. Section 1435.9(c) will also be amended to provide that lien waivers are not necessary in such States where the State's Attorney General provides a legal opinion approved by the Office of the General Counsel that liens filed on sugarcane or sugar beets do not extend to the raw or refined sugar or proceeds thereof.

Seven respondents commented on CCC's proposed announcement to set forth at this time, the loan rate of .18 per pound for raw cane sugar for the 1991 through 1995 crops. All of the respondents disagreed with this proposal. The respondents declared that this proposed rule was inconsistent with section 206 of the 1990 Act which sets forth that the Secretary may increase the support price for each of the 1991 through 1995 crops of sugarcane and sugar beets. The respondents believed that by announcing the .18 loan rate at this time, CCC is locking in the .18 rate for each of the 1991 through 1995 crops. The respondents declared that the proposed rule should reflect section 206 of the 1990 Act. In response to the

comments received, this final rule provides for the establishment of the basic loan rate for the 1991 the crop of domestically grown sugarcane at .18 per pound for raw cane sugar. In addition this final rule sets forth the 1991-crop sugar beet loan rate at 22.85 cents per pound.

There were three respondents that believed some specific conditions under which CCC could accelerate the repayment date of the loan be included in the regulations. Because it is the policy of CCC for all commodities not to call loans for any commodity unless it is absolutely necessary to protect CCC's interest in the collateral, no basis could be determined to treat sugar differently. Accordingly, the proposed provision is adopted without change.

Two respondents stated that making the processor liable for loan indebtedness to CCC for any differences as a result of a loan that is not satisfied through repayment of the loan or forfeiture of a sufficient quantity of sugar, violates "nonrecourse" loan provisions. The respondents believed that in the event the loan is not repaid, the collateral securing the loan is to be forfeited without recourse against the borrower for any deficiency. The respondents requested that § 1435.(b)(4) of the proposed rule be amended by deleting the last sentence. Sugar price support loans are disbursed based upon the assumption that the sugar pledged as collateral is of the quality specified by the processor; however, upon forfeiture if the quality is lower then CCC would require repayment of the difference. CCC has determined, as with all other commodities, if the quality and quantity of the loan collateral which is forfeited or repaid is of a quality or quantity less than the basis used to disburse the loan, the borrower is required to repay the difference. Accordingly, the proposed provision is adopted without change.

Three respondents commented on CCC's proposed crop year definition for price support loan purposes as the period from July 1 through June 30, inclusive. Respondents believed a different crop year definition that is reflective of particular sugar beet regions in California should be established for data collection purposes. CCC will provide a separate proposed rule for reporting requirements, for the 1991 through 1995 crops of sugarcane and sugar beet, as required by the 1990 Act. The above comments may be addressed at that time. Since the proposed definition was the same as in previous years and CCC did not receive any comments specifically relating to the use of this definition for price support purposes, CCC has determined that the crop year definition for price support loan purposes shall remain unchanged. Accordingly, the provisions of the proposed rule is adopted without change.

Three respondents commented on CCC's proposal to annually announce the loan rate as far in advance of the beginning of each fiscal year as practical through a USDA News Release, stating that the Secretary should announce and publish in the **Federal Register**, on an annual basis, the national and regional loan rates. After reviewing the comments received, as noted above, CCC has determined that the loan rates for each crop year for sugar beets and sugarcane will be published in the **Federal Register**.

Two respondents commented on the supplemental loan provisions that are available to sugar beet producing areas. The respondents requested that the proposed rule be amended to provide that the same supplemental loan provisions now available to sugar beet producing areas be extended to include sugarcane. CCC currently has no authority to extend these provisions to sugarcane producers. Accordingly, this suggestion is not adopted.

Two respondents commented on CCC's proposed requirement that the processor is responsible at all times for maintaining the quality and condition of CCC-owned sugar in storage. CCC no longer assumes the losses in the quantity or quality of the loan collateral. The respondents believed that CCC should continue to bear its pro-rata share of liability for loss or damage to sugar in storage resulting from factors beyond the processor's control. One respondent believed that this rule would place the entire risk of loss or damage on the processor even after the sugar has been forfeited to CCC. This provision does not affect CCC-owned sugar but only sugar pledged as collateral by a processor and was intended to treat sugar the same as all other commodities pledged as collateral for price support loan.

Four respondents commented on CCC's proposal regarding acceptable alternative "financial assurances." The respondents believed CCC should continue to provide that CCC and a processor may agree upon an alternative method of obtaining adequate financial assurance if CCC determines that such alternative methods will result in adequate protection for CCC and the producer. One respondent declared that all such alternative methods should be published in the regulations. After reviewing the comments received, CCC has determined to continue alternative financial assurance methods; however, because of the various and varied agreements that might be proposed and accepted by CCC on a case-by-case basis, CCC has determined that it is impractical to list all such forms of alternative financial assurances.

Two respondents commented on CCC's proposal that CCC will not require the processor to insure sugar pledged as collateral under loan. The respondents believed that if the processor insures such sugar and an indemnity is paid due to a loss and CCC has subsequently called such loan, CCC should take an interest in the insurance proceeds, rather than seeking immediate payment from the processor. After reviewing the comments received, it has been determined that § 1435.12(a) of the proposed rule shall be changed to require that insurance indemnities must be assigned to CCC in order to pay any outstanding loan indebtedness. In the event such indemnity is insufficient to satisfy the entire amount of the loan indebtedness, CCC would seek payment for the remaining amount from the processor.

One respondent believed the regulations were not clear with respect to sanctions imposed on a processor who does not pay to all eligible producers at least the minimum price support level specified by CCC. CCC concurs with the respondent that CCC should specify in the regulations the action which CCC will take when a processor fails to pay the minimum support price to producers. Accordingly, the final rule provides that CCC shall, for processors who do not pay to all eligible producers at least the minimum price support level specified by CCC, immediately call all of the processor's outstanding sugar price support loans and determine the processor is ineligible to receive CCC price support loans for any sugar for the next two crop years.

One respondent stated that the regulations were not clear on the processor's liability to pay not less than the minimum price support level specified by CCC for sugar delivered by eligible producers but on which the processor does not pledge for loan or for sugar pledged for loan that is redeemed before the final settlement date. CCC concurs that the conditions stated by the respondent should be clarified in the regulations. Accordingly, the final rule at § 1435.5 provides that producers who deliver sugar beets or sugarcane to a processor that does not participate in the price support loan program will not be guaranteed the price support level. The final rule also provides that all

eligible producers who deliver sugar beets or sugarcane to a processor that participates in the loan program and agrees to pay the price support level will receive the minimum price support level.

7 CFR Part 1421

The regulations at 7 CFR part 1421 set forth the terms and conditions of the price support programs for wheat, feed grains, rice, farm-stored peanuts, and oilseeds. This final rule sets forth at § 1421.7 the 1991 basic price support rates of these commodities.

7 CFR Part 1405

In order to facilitate the settlement of outstanding CCC Farm Facility Program loans made in accordance with 7 CFR part 1474, in December, 1989 CCC issued a final rule amending 7 CFR part 1405 to provide that CCC would participate in State loan mediation programs in States defined as a "qualifying State" under 7 CFR 1946.2(b). At this time, CCC has approximately 900 outstanding farm facility loans, many of which have been restructured in bankruptcy proceedings or under such approved State programs. In order to provide all producers in adverse financial situations the opportunity to mediate or otherwise compromise such outstanding loans, this final rule amends 7 CFR part 1405 to provide that CCC will engage in the mediation or compromise of CCC Farm Facility Program Loans whether or not the producer resides in a "qualifying State" as defined in 7 CFR part 1946. Accordingly, 7 CFR 1405.4 is revised to provide that any producer who believes that their financial condition warrants the mediation or compromise of such loan indebtedness may submit a request for consideration by CCC at the county Agricultural Stabilization and Conservation Service office which is responsible for servicing the loan. In order to ensure that producers receive individual review and adjudication of their requests, 7 CFR 1405.4 also provides that the administrative appeal procedure set forth at 7 CFR part 780 is applicable to determinations made under this section. Since this action by CCC provides more lenient treatment to all producers, it has been determined that it is in the public interest that this amendment to 7 CFR part 1405 become effective upon publication without any further rulemaking activity.

List of Subjects

7 CFR Part 1405:

Loan program/agriculture, Price support programs.

7 CFR Part 1421:

Grains, Loan programs/agriculture, Price support programs, Warehouses.

7 CFR Part 1435:

Loan programs/agriculture, Price support program, Reporting and recordkeeping requirements, Sugar.

Accordingly 7 CFR parts 1405, 1421 and 1435 are amended as follows:

PART 1405—[AMENDED]

1. The authority citation for part 1405 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c.

2. Section 1405.4 is revised to read as follows:

§ 1405.4 Mediation of farm facility program loans.

(a) With respect to farm facility program loans made in accordance with part 1474 of this chapter, CCC will mediate with producers, or otherwise attempt to compromise outstanding loan indebtedness incurred with respect to such loans, to establish reduced repayment amounts or revised repayment schedules. Producers who desire to submit a mediation or compromise proposal regarding the restructuring of such loans must submit a written request for such action to CCC at the county Agricultural Stabilization and Conservation Service office which is responsible for servicing the producer's loan. This request should also include a financial statement setting forth the current assets and liabilities of the producer including the appraised value of the facility which is the subject of such loan.

(b) Producers whose mediation or compromise offers are not accepted by CCC may seek review of this determination in accordance with the administrative appeal process set forth at part 780 of this title. Judicial review of determinations under this section and part 1474 of this chapter shall be in an appropriate United States District Court or in the United States Court of Claims, as applicable.

(c) CCC will not participate in the mediation or compromise of commodity price support loans made in accordance with this title.

PART 1421—[AMENDED]

3. The authority citation for part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441Z, 1444f-1, 14456–3a, 1444C–3, 1445e and 1446f; 15 U.S.C. 714b and 714c.

4. In § 1421.7, a new paragraph (c) is added to read as follows:

§ 1421.7 Adjustment of basic support rates.

* * * * *

(c) The basic support rates for 1991 crops are:

(1) Wheat—$2.04 per bushel
(2) Corn—$1.62 per bushel
(3) Barley—$1.32 per bushel
(4) Oats—$.83 per bushel
(5) Grain Sorghum—$1.54 per bushel
(6) Rye—$1.38 per bushel
(7) Rice—$6.50 per hundredweight
(8) Soybeans—$5.02 per bushel
(9) Canola, flaxseed, mustard seed, rapeseed, safflower, and sunflower seed—$0.089 per pound
(10) Peanuts, Quota—$642.79 per ton; Additional—$149.75 per ton.

5. Part 1435 is revised to read as follows:

PART 1435—SUGAR

Subpart—Price Support Loan Program for the 1991 and Subsequent Crops of Sugar Beets and Sugarcane

Sec.
1435.1 Applicability.
1435.2 Administration.
1435.3 Definitions.
1435.4 Method of support and loan rates.
1435.5 Eligibility requirements.
1435.6 Availability, disbursement, and maturity of loans.
1435.7 Quantity eligible for loan.
1435.8 Loan maintenance and liquidation.
1435.9 Quality and storage facility requirements.
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Subpart—Regulations Governing the Protection of Sugar Producers

1435.100 General statement.
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Subpart—Price Support Loan Program for the 1991 and Subsequent Crops of Sugar Beets and Sugarcane

Authority: 7 U.S.C. 1421, 1423, 1446g; 15 U.S.C. 714b and 714c.

§ 1435.1 Applicability.

(a) The regulations in this subpart are applicable to the 1991 and subsequent crops of sugar beets and sugarcane. These regulations set forth the terms and conditions under which price support loans shall be entered into by the Commodity Credit Corporation ("CCC") with eligible processors. Additional terms and conditions are set forth in the loan application and note and security agreement which must be

executed by a processor in order to receive such a loan.

(b) Price support loan rates which are used in administering the price support program for a crop of sugar beets or sugarcane are available in State and county Agricultural Stabilization and Conservation Service ("ASCS") offices ("State and county offices", respectively).

(c) Price support loans shall be available as provided in this part with regard to sugar beets and sugarcane produced in the United States.

§ 1435.2 Administration.

(a) The price support program which is applicable to a crop of sugar beets or sugarcane shall be administered under the general supervision of the Administrator, ASCS, and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees ("State and county committees", respectively).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, an action taken by such county committee which is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, or the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator, State and County Operations, ASCS, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not affect adversely the operation of the price support program.

(f) A representative of CCC may execute price support loans and related documents only under the terms and conditions determined and announced by CCC. Any such document which is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by CCC, shall be null and void.

§ 1435.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in part 719 of this title and part 1413 of this chapter shall also be applicable.

Crop year means the period from July 1 through June 30, inclusive. In referring to the crop year for a particular crop, the crop year begins on July 1 of the year of that crop. For example, the crop year for the 1991 crop begins on July 1, 1991 and is referred to as the "1991 crop year."

1991 crop means sugar processed from domestically-produced sugar beets or sugarcane during the 1991 crop year.

Eligible processor means a processor who, as a condition of obtaining a CCC price support loan, agrees to pay all eligible producers who have delivered or will deliver to such processor for processing sugar beets or sugarcane not less than the minimum price support levels specified by CCC for the applicable crop year.

Eligible producer means the owner of a portion or all of the domestically produced sugar beets or sugarcane, including share rent landowners, at both the time of harvest and the time of delivery to the processor, except producers determined to be ineligible as a result of the regulations governing highly erodible land and wetland conservation found at 7 CFR part 12 or the regulations governing controlled substances violations at 7 CFR part 796.

Eligible storage means a storage facility meeting the requirements set forth in § 1435.9(d) of this subpart.

Normal juice means the undiluted juice extractable from sugarcane by a mill tandem when on maceration water is added during the milling process.

Normal juice purity means a percentage expressing the ratio of the quantity of sucrose to the quantity of dissolved solids in normal juice.

Normal juice sucrose means the percentage of sucrose in normal juice.

Processor means a person or legal entity that either commercially processes sugar beets into refined sugar or processes sugarcane into raw sugar, cane syrup, or edible molasses or is a cooperatively-owned refiner of raw cane sugar which markets refined cane sugar and raw cane sugar on behalf of its members and non-member patrons who are eligible producers.

Raw value of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope.

Secretary means the Secretary of Agriculture or an official who has been designated to act on behalf of the Secretary.

Sugar means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup, or edible molasses which:

(1) Is processed by a processor from domestically-produced sugar beets or sugarcane, and

(2) Meets the quality requirements set forth in § 1435.9(b) of this subpart.

Sugar beets of average quality and *Sugarcane of average quality* means sugar beets and sugarcane containing a percentage of sucrose as set forth in notices published in the **Federal Register** for the applicable crop year.

§ 1435.4 Method of support and loan rates.

(a) Price support to eligible producers of the 1991 through 1995 crops of sugar beets and sugarcane processed during the applicable crop year is available through nonrecourse loans to eligible processors. Producers who deliver sugar beets and sugarcane to an eligible processor will receive from such processor not less than the minimum price support levels specified by CCC for the applicable crop year.

(b) The basic (weighted average) loan rates for the 1991 crops of domestically grown:

(1) Sugarcane shall be 18 cents per pound for raw cane sugar; and

(2) Sugar beets shall be 22.85 cents per pound.

(c) The 1991 through 1995 crop loan rates applicable to eligible sugar shall be adjusted to reflect the processing location of the sugar offered as collateral for a price support loan and are available from State offices.

§ 1435.5 Eligibility requirements.

(a)(1) The maximum quantity of sugar which is eligible to be pledged as collateral for price support loans by an eligible processor is that quantity of domestically-produced sugar which is equivalent to the quantity of sugar processed by the processor during the applicable crop year from sugar beets and sugarcane grown by eligible producers. Such sugar must be processed and owned by the eligible processor or jointly owned by the eligible processor and eligible producer, pledging the sugar as collateral for loan and must be in eligible storage.

(2) For purposes of this paragraph and § 1435.7 of this subpart, sugar that is processed after June 30, of a particular crop year, but before October 1 of the subsequent crop year, from sugar beets

harvested during a continuous harvest which began during the particular crop year, shall be considered as having been processed during that particular crop year.

(b) Eligible processors are those processors who, as a condition of obtaining a CCC price support loan, agree to pay to all eligible producers who have delivered or will deliver to such processor for processing sugar beets or sugarcane not less than the minimum price support levels specified by CCC for the applicable crop year. Eligible processors who fail to provide such minimum price support levels for a crop year will be determined by CCC to be ineligible to obtain sugar price support loans for the next two crop years, and all outstanding sugar price support loans will be due and payable as specified by CCC.

§ 1435.6 Availability, disbursement, and maturity of loans.

(a)(1) To obtain price support on eligible sugar, an eligible processor:

(i) Must file a request for a price support loan, as prescribed by CCC, with the State committee of the State where such processor is headquartered or a county committee designated by the State committee; and

(ii) must execute a note and security agreement and storage agreement as prescribed by CCC.

(2) The request for price support:

(i) May be filed no earlier than October 1 and must be filed no later than June 30 of the applicable crop year, and

(ii) May include a quantity of sugar which the processor estimates will be processed after that crop year but will be considered as having been processed during that crop year in accordance with the provisions of § 1435.5(a) of this subpart.

(3) No loan proceeds may be disbursed for such sugar until it has actually been processed and is otherwise established as being eligible to be pledged as loan collateral.

(b) A processor may, within the loan availability period, repledge to CCC as collateral eligible sugar that has previously served as loan collateral for a price support loan that has been repaid.

(1) In making application for such loan, the processor shall:

(i) Specify that the loan collateral should be treated as a quantity of eligible sugar that has previously served as loan collateral for a price support loan which has been repaid.

(ii) Designate the original price support loan with respect to which the reoffered loan collateral was originally pledged.

(2) The subsequent loan shall have the same maturity date as the original loan.

(3) Loan collateral repledged that has been previously redeemed from CCC shall not be included in determining the total cumulative quantity of sugar on which loans have been obtained for purposes of § 1435.7 of this subpart.

(c) Disbursement will be made by means of checks drawn on the account of CCC.

(1) Disbursements shall be made without regard to the actual polarity of the sugar pledged as collateral for the price support loan but shall be made on the assumption that the polarity of such sugar is 96 degrees by the polariscope.

(2) Adjustments for polarity will be made at the time of the settlement of the loan.

(d) Unless CCC and the processor agree otherwise, loans will mature on the last day of the ninth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan.

(1) Loan maturity dates may be accelerated by CCC in accordance with § 1435.8(b)(3) of this subpart.

(2) CCC and the processor may agree upon an earlier or later maturity date but in no event later than September 30 following disbursement of the loan, if such maturity date will not impair the effectiveness of the price support program, as determined by CCC.

(e)(1) Notwithstanding any other provision of this part, in areas where CCC determines that sugar beets normally are harvested during July, August, and September a processor may:

(i) Obtain a loan with respect to sugar processed from such production, and

(ii) If such loan is repaid by September 30, request a supplemental nonrecourse loan.

(2) Such supplemental loan:

(i) Shall be requested by the processor during the month of October following the month the initial loan was made in accordance with paragraph (e)(1) of this section was repaid;

(ii) Shall be at the same loan rate as the loan made in accordance with paragraph (a) of this section; and

(iii) Shall mature on the last day of the ninth month following the month in which the supplemental loan was disbursed, minus the number of months the initial loan made in accordance with paragraph (a) of this section was in effect.

§ 1435.7 Quantity eligible for loan.

(a) Price support loans shall not be approved for more than the quantity of sugar which an eligible processor certifies is eligible and available to be pledged as collateral for a loan.

(b) Sugar pledged as collateral for a loan is not required to be stored identity-preserved.

(c) The total cumulative quantity of sugar that may be pledged as collateral for a price support loan may not exceed the maximum quantity of sugar eligible to be pledged as loan collateral:

(1) As determined in § 1435.5(a) and of this subpart, and

(2) Which is certified by the processor as free and clear of all liens and encumbrances determined in accordance with § 1435.9(b) (4) and (c) of this subpart.

(d) The total quantity of sugar which a processor may pledge as collateral for a loan at any single time may not exceed:

(1) The total eligible storage capacity less ineligible sugar in storage; or

(2) The quantity of eligible sugar processed during the applicable crop year, whichever is less.

§ 1435.8 Loan maintenance and liquidation.

(a) A processor shall maintain in eligible storage eligible sugar of sufficient quality and quantity to satisfy the processor's loan indebtedness to CCC.

(1) By executing a Marketing Authorization for Loan Collateral (Form CCC-681-1), the processor may request and obtain prior written approval of the loanmaking office to remove a specified quantity of the loan collateral for the purpose of delivering it to a buyer prior to repayment of the loan.

(2) The loanmaking office shall not approve such a request unless the buyer of the sugar agrees to pay CCC an amount necessary to satisfy the processor's loan indebtedness with respect to the sugar which has been purchased. Any such approval shall not:

(i) Constitute a release of CCC's security interest in the sugar, or

(ii) Relieve the processor of liability for the full amount of the loan indebtedness, including interest.

(b)(1) At the processor's option, a processor may, at any time prior to maturity of the loan, redeem all or any part of the loan collateral by paying to CCC the principal amount of the loan, plus interest, applicable to the quantity of sugar redeemed.

(2)(i) If a processor desires to forfeit all or any part of the loan collateral to CCC, the processor must notify in writing the appropriate loanmaking office of the processor's intent to forfeit the loan collateral and the amount of loan collateral which the processor

intends to forfeit. Such notice must be delivered to the loanmaking office no later than 30 days prior to the maturity date of the loan. CCC shall not accept delivery of sugar in settlement of a price support loan in excess of the amount specified in the notice of intent to forfeit.

(ii) Notwithstanding the fact that the processor has given notice of intent to forfeit, the processor may, at any time prior to maturity of the loan, redeem the loan collateral in accordance with paragraph (b)(1) of this section.

(iii) If the processor does not redeem any amount of the loan collateral with respect to which a notice of intent to forfeit has been properly given, the unredeemed loan collateral will, without further action by CCC or the processor, be deemed to have been delivered to CCC in-store at the processor's storage facility on the day following the maturity date of the loan.

(A) Upon delivery, title and all rights and interest with respect to the sugar shall immediately vest in CCC.

(B) Delivery of eligible sugar in eligible storage will be accepted as payment in full of the principal amount of the loan, plus interest, applicable to the quantity of sugar delivered.

(3) CCC may at any time accelerate the date for repayment of the loan indebtedness, including interest. CCC will give the processor notice of such acceleration at least 15 days in advance of the accelerated loan maturity date. In the event of any such acceleration, the processor may elect to redeem or forfeit all or any part of the loan collateral in accordance with the provisions of paragraphs (b) (1) and (2) of this section. The required notice of intent to forfeit, as set forth in paragraph (b)(2)(i) of this section, may be given at any time prior to the accelerated maturity date.

(4) If the loan indebtedness, including interest, is not satisfied in accordance with the provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell such collateral at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan, the processor shall be liable to CCC for the difference.

(5) The processor shall at all times be responsible for maintaining the quality and quantity of the loan collateral.

(c) Storage costs through the loan maturity date shall be borne by the borrower.

(d) If CCC determines, by actual measurement or otherwise, that the actual eligible quantity serving as collateral for a price support loan is less than the loan quantity, because of incorrect certification, unauthorized removal, or unauthorized disposition, CCC may call the loan. Such determination shall result in the processor being deemed ineligible for price support through at least the crop year after the crop year in which the incorrect certification, unauthorized removal, or unauthorized disposition was discovered.

§ 1435.9 Quality and storage facility requirements.

(a) The quantity of sugar which a processor may deliver to CCC in settlement of the loan shall not exceed the quantity of sugar which is shown on the note and security agreement approved by CCC minus any quantity that was redeemed or released for removal in accordance with § 1435.8 of this subpart.

(b) In order to be eligible to be pledged as collateral for a price support loan, sugar must meet the following minimum quality requirements:

(1) Refined beet or cane sugar must be:

(i) Dry and free flowing;

(ii) Free of excessive sediment; and

(iii) Free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(2) Raw cane sugar must be:

(i) Of reasonable grain size;

(ii) Free from excessive color or moisture; and

(iii) Free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of sugar for normal commercial purposes.

(3) Sugarcane syrup or edible molasses must be free from any objectionable color, flavor, odor, or other characteristic which would impair or prevent the use of such sugar for normal commercial purposes.

(4) Any type of sugar pledged as collateral for a price support loan must be free of any contamination by either natural or manmade substances and must not contain chemicals or other substances which are poisonous or harmful to humans or animals.

(c) All sugar which is pledged as collateral for a CCC price support loan must be free and clear of any liens, mortgages, or other such encumbrances. The processor shall obtain:

(1) For raw or refined sugar owned by the processor which is pledged as collateral for a price support loan, lien waivers on a form prescribed by CCC from all persons who have a lien or other encumbrance with respect to such sugar or the proceeds thereof; and

(2) For sugar beets and sugarcane purchased or otherwise acquired by the processor which are processed to obtain raw or refined sugar which is pledged as collateral for a price support loan:

(i) Lien waivers on a form prescribed by CCC from all persons who have a lien or other encumbrance with respect to such sugar beets or sugarcane or the proceeds thereof; or

(ii) An opinion from the Attorney General for a State which CCC determines adequately concludes that the laws of such State do not allow for the attachment of a security interest to raw or refined sugar when such interest is initially asserted against sugar beets or sugarcane or the proceeds thereof.

(d) Sugar which is forfeited to CCC may only be delivered to CCC at a facility approved by CCC which has eligible storage.

(1) Eligible storage is any storage facility which:

(i) Is owned or controlled by the processor;

(ii) Is suitable for the storage and loading out of the sugar being delivered to CCC by the processor;

(iii) Meets CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils (7 CFR part 1423);

(iv) Is placed under a storage contract with CCC; and

(v) Consists of a storage structure which is determined by a representative of either the county committee or State committee to afford safe storage of the sugar.

(2) If the sugar is delivered in or to an ineligible storage facility, the processor shall be responsible for all costs incurred in moving the sugar to an eligible storage facility.

(e) CCC shall, at any time, have the right to inspect the loan collateral and the storage facilities in which it is situated. The processor shall also furnish to CCC such production records as CCC considers necessary to verify compliance with the quantitative limitations set forth in §§ 1435.5 and 1435.7 of this subpart.

(f) Regardless of whether CCC inspected the sugar and storage facility prior to delivery, the processor shall be liable to CCC for any damages suffered by CCC if:

(1) The processor delivers ineligible sugar to CCC; or

(2) The processor delivers sugar to CCC which is stored in ineligible storage.

§ 1435.10 Processor storage agreement.

(a) By executing a note and security agreement, the processor agrees to store any loan collateral sugar that is forfeited to CCC on behalf of CCC under the terms and conditions specified in this subpart and any storage agreement entered into between CCC and the processor. Should the terms of the storage agreement and the terms of these regulations conflict, the terms set forth in the regulations shall be applicable.

(b) The processor shall at all times be responsible for maintaining the quality and condition of the CCC-owned sugar in storage. The processor shall also be liable to CCC for any damages suffered by CCC due to the failure of the processor to load out sugar meeting the eligibility criteria set forth in § 1435.9(b) of this subpart.

(c) After delivery of the sugar to CCC, the processor shall store sugar delivered to CCC in the eligibile storage where delivered for as long as deemed necessary by CCC after delivery of the sugar to CCC. However, if a sugar beet processor requires the storage space for other sugar during the period, the processor is required by CCC to maintain the refined beet sugar delivered to CCC in settlement of the loan in the storage where delivered, CCC will accept bagged sugar from the then current crop in substitution for the delivered bulk sugar if the sugar loan rate for the area where the bagged sugar is stored is equal to or exceeds the loan rate for the delivered bulk sugar.

(d) The processor shall remove and physically deliver the forfeited loan collateral in accordance with written instructions from CCC. All load out expenses shall be for the account of the processor.

(e) CCC shall make monthly storage payments to the processor for the period of time the processor stores the forfeited sugar for CCC. The storage payment rate shall be as agreed upon by CCC and the processor.

§ 1435.11 Fees, charges, interest, and bonding.

(a) A processor shall pay to CCC a loan service fee in connection with the disbursement of each loan. The amount of the service fee shall be determined and announced by the Executive Vice President, CCC, or the Executive Vice President's designee.

(b) Interest which accrues with respect to a loan shall be determined in accordance with part 1405 of this chapter.

(c) Except as provided in paragraph (c)(2) of this section, a processor making application for a sugar loan in accordance with § 1435.6 of this subpart shall post a bond or other financial assurance acceptable to CCC, that is payable to CCC in the event that the processor does not pay the producers of sugar beets or sugarcane the maximum benefits under the sugar price support program. Posting of the bond or other financial assurance shall be required prior to disbursement of any loan proceeds.

(1) The bond or other financial assurance must provide protection for an amount equal to the applicable regional support level for sugar beets or sugarcane, as applicable, times 10 percent of the total annual quantity of sugar beets or sugarcane, respectively, delivered to the processor by producers for processing in the previous year or, in the event such quantity cannot be determined, the quantity estimated by CCC that will be delivered to the processor for that crop.

(2) CCC and a processor may agree upon an alternative method of obtaining adequate financial assurance if CCC determines that such alternative method will result in adequate protection for CCC and the producer.

§ 1435.12 Miscellaneous provisions.

(a) CCC will not require the processor to insure the sugar pledged as collateral. However, if the processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest in the sugar involved in the loss.

(b) The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any scheme or device whatsoever.

(c) The regulations issued by the Secretary governing setoffs and withholding set forth at part 3 of this title and part 1403 of this chapter, shall be applicable to the program set forth in this subpart.

(d) If there are any liens or encumbrances on sugar pledged as collateral for a price support loan, waivers that fully protect the interest of CCC must be obtained by the processor even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the sugar after the loan is approved.

(e) A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations at 7 CFR part 780.

(f)(1) CCC, the Office of the Inspector General, USDA, and the Comptroller General of the United States shall have the right to have access to the premises of the processor in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by the examining agency to verify compliance with the requirements of this subpart. Such books, records, accounts, and other written data shall be retained by the processor for not less than three years from the loan disbursement date.

(2) Any processor obtaining price support on eligible sugar must, upon the request of CCC, provide to CCC such information as CCC deems appropriate concerning freight and related shipping costs for the processor's most recent complete marketing year. By obtaining price support, processors are deemed to have agreed to provide such information when requested by CCC.

(g) Any false certification, including those made for the purpose of enabling a processor to obtain a price support loan to which it is not entitled, will subject the person making such certification to liability under applicable federal civil and criminal statutes.

(h) In order to avoid unreasonable administrative costs incurred in making small payments and handling small accounts, amounts of $9.99 or less which are due to a processor will be paid only upon the processor's request. Deficiencies of $9.99 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(i) In case of death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a loan, payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.13 Applicable forms.

The CCC forms for use in connection with this program will be available from the appropriate State committee or designated county committee. For any CCC form that refers to program participation by producers, the term "producer" shall mean "processor" when such form is used for participation in the sugar loan program.

Subpart—Regulations Governing the Protection of Sugar Producers

Authority: U.S.C. 301; 7 U.S C. 1421(e)(2); 15 U.S.C. 714b and 714c.

§ 1435.100 General statement.

If the bankruptcy or other insolvency of an eligible processor has caused

producers of sugar beets or sugarcane not to receive maximum benefits from the price support program for sugar beets or sugarcane within 30 days after the final settlement date provided for in the contract between such producers and processor, CCC, on demand of the producers and on such assurances as to nonpayment as CCC may require, shall pay such producers benefit payments.

§ 1435.101 Definitions.

The following definitions apply to terms used in this subpart:

ASCS means the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

Benefit payment means an amount to be paid to eligible producers equal to the difference between the specified support level for the applicable crop of sugar beets or sugarcane, after all applicable adjustments, and any benefits previously received by, or otherwise available to, the producers with respect to such crop of sugar beets and sugarcane.

CCC means the Commodity Credit Corporation, United States Department of Agriculture.

Eligible processor means a processor who, as a condition of obtaining a CCC price support loan, agrees to pay to all eligible producers who have delivered or will deliver to such processor for processing sugar beets or sugarcane not less than the minimum price support levels specified by CCC for the applicable crop year.

Insolvency of an eligible processor means a final judicial determination that the liabilities of the processor exceed the assets of the processor to the extent that the processor is unable to fulfill contractual obligations of the processor to make payment to producers for sugar beets and sugarcane.

§ 1435.102 Producer eligibility.

(a) A producer of sugar beets or sugarcane shall be considered to be eligible for benefit payment only:

(1) For that quantity of domestically-produced sugar beets or sugarcane sold under contract to an eligible processor who was a participant in the price support program for sugarcane or sugar beets for the applicable crop whether or not the sugar processed from such sugar beets or sugarcane was included in the quantity pledged as collateral for a price support loan by the processor;

(2) If the contract with the processor provided for a final settlement date after January 1, 1985;

(3) If the processor failed to make payment within 30 days after the final settlement date due to bankruptcy or other insolvency; and

(4) If the producer was an eligible producer for purposes of the price support program for the applicable crop of sugar beets or sugarcane.

(b) CCC may require as a condition of payment of a benefit payment such documentation or other proof of the producer's eligibility, the processor's nonpayment, or other information necessary to make the benefit payment as CCC determines appropriate.

§ 1435.103 Benefit payment to producers.

(a) A producer must request a benefit payment from CCC at the producer's local county ASCS office, unless otherwise determined by CCC, in a manner and on a form prescribed by CCC.

(b) A producer must request a benefit payment no earlier than 30 days, and no later than 60 days, after the final settlement date provided for in the contract between the producer and the processor, unless otherwise approved by CCC.

(c) Benefit payments will be made by checks drawn on CCC, by credit to the producer's account, or by such other means as CCC determines appropriate.

§ 1435.104 Liens.

(a) In order to receive a benefit payment, a producer must certify to CCC whether there was any liens or encumbrances on the sugar beets or sugarcane that the producer sold to the applicable processor under the applicable contract as of the time of delivery of the sugar beets or sugarcane to the processor, or as of the time title to the sugar beets or sugarcane transferred from the producer to the processor if title transferred at a time other than at the time of delivery to the processor. If there were any such liens or encumbrances, the producer must provide CCC with a certified list of all such liens or encumbrances together with the names and addresses of the holders of such liens or encumbrances and the amount held by each such holder.

(b) CCC will make all benefit payments jointly to the producer and the holders of such liens or encumbrances unless the producer provides CCC with a waiver of all such liens or encumbrances by each such holder or a certified statement by such holder that the liens or encumbrances have been extinguished. CCC may prescribe the form for such waivers or statements.

§ 1435.105 Subrogation of claims.

(a) A producer must execute an agreement with CCC, acceptable to CCC, subrogating to CCC all claims of that producer against the processor and other persons responsible for nonpayment. The amount subrogated to CCC must be equal to the amount of the producer's claims, up to the amount of the benefit payment plus any applicable interest or other charges. Any recoveries up to the amount subrogated which are received by that producer from any source whatsoever for the processor's nonpayment must be immediately forwarded to CCC. The producer shall cooperate with CCC in CCC's efforts to collect on the claims subrogated to CCC.

(b) A producer shall maintain the books and records pertaining to the benefit payments and the applicable contracts with the processor for a period of at least 3 years following the producer's demand for payment under this subpart. Authorized officials of the United States Department of Agriculture shall have access to, and right to examine, any pertinent books, documents, papers, and records of the producer.

Signed September 13, 1991, in Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 13

RIN 3150-AD71

Program Fraud Civil Remedies Act

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule implements the Program Fraud Civil Remedies Act of 1986. The Act authorizes certain Federal agencies, including the Nuclear Regulatory Commission, to impose, through administrative adjudication, civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the agency. These final regulations establish the procedures the Commission will follow in implementing the provisions of the Act and specifies the hearing and appeal rights of persons subject to penalties and assessments under the Act.

EFFECTIVE DATE: October 18, 1991.

FOR FURTHER INFORMATION CONTACT: John Cho, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-1585.

SUPPLEMENTARY INFORMATION:

Background

In October 1986, Congress enacted the Program Fraud Civil Remedies Act, Public Law No. 99-509 (codified 31 U.S.C. 3801 through 3812), to establish an administrative remedy against any person who makes a false claim or written statement to any of certain Federal agencies. In brief, it requires the affected Federal agencies to follow certain procedures in recovering penalties (up to $5,000 per claim) and assessments (up to double the amount falsely claimed) against persons who file false claims or statements for which the liability is $150,000 or less. The Act further requires each affected agency to promulgate rules and regulations necessary to implement its provisions.

Following the Act's enactment, at the request of the President's Council on Integrity and Efficiency (PCIE) an interagency task force was established under the leadership of the Department of Health and Human Services to develop model regulations for implementation of the Act by all affected agencies. This action was in keeping with the stated desire of the Senate Governmental Affairs Committee that "the regulations would be substantially uniform throughout the government" (S. Rep. No. 99-212, 99th Cong., 1st Sess. 12 (1985)). Upon their completion, the PCIE recommended adoption of the model rules by all affected agencies.

At that time, the Act did not apply to the Nuclear Regulatory Commission. However, that Act has since become applicable to the Commission as a result of the enactment of the Inspector General Act Amendments, Public Law 100-504, October 18, 1988. Those amendments, *inter alia*, added the Nuclear Regulatory Commission as an "establishment" under the Inspector General Act and, by doing so, operated to bring the Commission within the provisions of the Program Fraud Civil Remedies Act.

These regulations are essentially the same as the model rules recommended by the PCIE. They incorporate, where appropriate, definitions to fit the Commission's organization. They prescribe the procedure under which false claims and statements subject to the Act will be investigated and reviewed, and the rules under which any ensuing hearing will be conducted.

Statutory Scheme

Under the Act, false claims and statements subject to its provisions are to be investigated by an agency's investigating official. The results of the investigation are then reviewed by an agency reviewing official who determines whether there is adequate evidence to believe that the person named in the report is liable under the Act. Upon an affirmative finding of adequate evidence, the reviewing official sends to the Attorney General a written notice of the official's intent to refer the matter to a presiding officer for an administrative hearing. The agency institutes administrative proceedings against the person only if the Attorney General or the Attorney General's designee approves. Any penalty or assessment imposed under the Act may be collected by the Attorney General through the filing of a civil action, or by offsetting amounts, other than tax refunds, owed the particular party by the Federal government.

For purposes of this Act, these regulations designate the Inspector General or the Assistant Inspector General for Investigations as the agency's investigating official. They also designate the Deputy General Counsel for Licensing and Regulation or his or her designee as the reviewing official. Any administrative adjudication under the Act will be presided over by an Administrative Law Judge and any appeals from the Administrative Law Judge's decision will be decided by the Commission.

A more detailed discussion of the model rules' provisions is found in the promulgations of several of the agencies that adopted them earlier, including those of the Departments of Justice (53 FR 4034; February 11, 1988 and 53 FR 11645; April 8, 1988); Health and Human Services (52 FR 27423; July 21, 1987 and 53 FR 11656, April 8, 1988); and Transportation (52 FR 36968; October 2, 1987 and 53 FR 880, January 14, 1988). Anyone desiring further explanation of the model rules is referred to the cited references.

Public Comment and Agency Response

These regulations were published earlier for public comment on September 25, 1990 (55 FR 39158). The only comments received on time were from the law firm Winston & Strawn. Additional comments were later received from the Houston Lighting and Power Company (HL&P). The comments and our response are discussed below.

Winston & Strawn's comments relate to its concern that the regulations can be read to establish an additional, and in its view, unauthorized and unneeded enforcement mechanism, to ensure that the Commission receives complete and accurate information from its licensees. The commenter suggests that the Commission dispense with further rulemaking but that if the Commission decides to proceed, it should make clear that the regulations will not be used as an additional enforcement mechanism for safety or license-related submittals.

In suggesting that the Commission cease further rulemaking, Winston & Strawn questions the Commission's conclusion that the addition of the Nuclear Regulatory Commission as an establishment under the Inspector General Act operated to amend the Program Fraud Civil Remedies Act so as to bring the Commission within its scope. Winston & Strawn refers to the general rule of statutory construction cited in *Hassett* v. *Welch*, 303 U.S. 303, 314 (1938), providing that when a statute adopts a part or all of another statute by a specific and descriptive reference thereto, the adoption takes the statute as it existed at the time of adoption and does not include subsequent additions or modifications of the statute so taken unless it does so by express intent.

That rule of construction, however, has its exceptions. It does not apply if the reference to the adopted act is general rather than specific. Nor does it control if there are strong Congressional indications that a different conclusion was intended. *Clark* v. *Crown Construction Co.*, 887 F.2d 149 (8th Cir. 1989); *Director O.W.P.* v. *Peabody Coal Co.*, 554 F.2d 310 (7th Cir. 1977). The Commission believes that the latter situation applies here.

The position taken by the Commission carries out the important remedial purpose of both the Program Fraud Civil Remedies Act and the Inspector General Act. Both Acts were passed by Congress because of evidence of widespread waste, fraud and abuse occurring in the operations of certain agencies. See S. Rep. 99-212 at 2-8; S. Rep. 95-1071 at 4-5. Congress determined that these agencies needed independent officials—Inspectors General—to ferret out such waste, fraud and abuse and established offices in the agencies concerned by enactment of the Inspector General Act. Later, as a separate matter, Congress saw the need to confer additional remedial authority not otherwise available to those agencies to help them combat fraud and abuse. It did so through the Program Fraud Civil Remedies Act by requiring investigations under that Act to be conducted by the agency's Inspector General and by conferring civil penalty

and loss recoupment authority upon the agency. Congress, subsequently, also saw the need for independent Inspectors General at additional agencies, including the NRC, that had important missions and programs that require strict controls against fraud, waste and abuse. Congressional Record S. 14446 (October 4, 1988). It enacted the Inspector General Act Amendments in furtherance of that purpose.

In view of the common purpose and interrelationship of the Acts and the manifest objective of Congress to provide the agencies involved with the tools of those Acts to combat the problem of waste, fraud and abuse in the programs and operations of the agency, the Commission is persuaded that the better interpretation of the Acts is that adopted by the Commission. The construction suggested by Winston & Strawn would impute to Congress the incongruous intent of mandating an Inspector General for the Commission while at the same time denying the agency the remedial authority provided by the Program Fraud Civil Remedies Act to deal with waste, fraud and abuse in the programs and operations of the agency. That construction would not advance the objective of either the Inspector General Act or the Program Fraud Civil Remedies Act.

As to the second of Winston & Strawn's comments, the existing statutory and regulatory enforcement mechanisms (including the use of criminal and civil penalty authority) continue to be applicable and, as part of those mechanisms, the Commission's Office of Investigations will continue to be responsible for conducting investigations of violations by licensees and other regulated entities, including false statements by licensees. The Commission believes that the continued use of the existing Atomic Energy Act enforcement mechanism and the Office of Investigations for this purpose is consistent with Congressional intent. The Office of Investigations was at one time included for transfer to the NRC's Inspector General in the bill that became the Inspector General Act Amendments, S. 908. However, that provision was later deleted from the bill because of a concern that the Commission would lose the ability to set priorities in the interest of public health and safety and direct investigations of licensee wrongdoing if the Office of Investigations were made part of the Inspector General's Office. Congressional Record S. 417 (February 2, 1988). License/regulatory violations often have significant public health and safety consequences and the Commission's ability to direct and control its own investigations, to enable it to take immediate corrective action to protect the public health and safety, is critical to the carrying out of its responsibilities.

In addition to being the investigation official under the Program Fraud Civil Remedies Act, the Inspector General has broad, independent authority under the Inspector General Act, as amended, to conduct audits relating to the efficiency of the programs and operations of the agency and investigations relating to wrongdoing within the agency and agency programs. In carrying out these duties, the Inspector General may identify a particular situation involving misconduct by a licensee or other regulated party. While those actions of the Inspector General are not considered a part of the Commission's normal licensee/regulatory enforcement mechanism, the Inspector General may uncover violations that may subject the person to enforcement action under the Atomic Energy Act as well as civil penalties under the Program Fraud Civil Remedies Act at least to the extent that a fraudulent claim or statement is made to the NRC with respect to matters associated with property, services and benefits in the context of claims for money and statements related to such money-type matters, contracts, loans or similar benefits. Thus, false statements unrelated to such money claims ordinarily would not be deemed to come within the scope of the Program Fraud Civil Remedies Act but rather would be matters to be addressed in accordance with the provisions of the Atomic Energy Act and the remedies, both civil and criminal, provided by it. Accordingly, investigations regarding false statements unrelated to money-type matters would be undertaken by the Commission's Office of Investigations and any ensuing enforcement action would be pursued under the NRC's traditional enforcement program and policy. It is expected that allegations or other information concerning false statements unrelated to money claims that are brought to the Inspector General would ordinarily be referred to the Office of Investigations for appropriate action.

With respect to the foregoing, it is recognized that in most cases the Atomic Energy Act may provide for more effective sanctions, e.g., orders and higher civil penalties, and a simpler process for imposition of such penalties. Therefore, the regulation provides for the Inspector General, in making his determination whether to proceed under the Program Fraud Civil Remedies Act, to consult with the Executive Director for Operations to determine the most effective approach and sanction. The Commission expects that in these types of cases, the Atomic Energy Act will normally provide the more appropriate sanction but it recognizes that, in some instances, the sanctions provided by the Program Fraud Civil Remedies Act might be useful.

Nonetheless, any recommendation by the Inspector General needs to be considered and evaluated on its merits. Where the Inspector General recommends action under the Program Fraud Civil Remedies Act, the agency expects to weigh the Inspector General's recommendation against other available remedies, including those under the Atomic Energy Act and regulations thereunder, and pursue that course of action that will best serve the government's interest. The rule proposed earlier has been changed at § 13.4 to provide for coordination to the extent possible between the Inspector General and the Executive Director for Operations in cases involving licensees, and, if agreement is not reached, to allow the Commission to decide within its authority among various possible remedies in licensee false statement cases on that remedial action or actions which its believes best serve its enforcement program. Section 13.4(b) has been revised to provide for such coordination and § 13.4(c) has been revised to provide that the investigating official may defer or postpone initiating an investigation or completing a report or referral to the reviewing official to avoid interference not only with a criminal investigation or prosecution but, as well, with other enforcement action by the Commission.

As for the comments of HL&P, the Commission finds that except for minor editorial changes related to HL&P's third of four comments discussed seriatim below, no change in the proposed rule is warranted. HL&P's first two comments pertain to the definition of the terms "benefit", "claim", and "statement" in § 13.2. It suggests that because the definition for each of those terms is extremely broad, a limiting provision should be added to preclude their application to all communications by a licensee to the agency in connection with the licensee's obligations under various specified regulations. As claimed by HL&P, without this limiting provision, the definitions might result in misapplication of Congressional intent. In addition, with respect to the term "benefit", HL&P claims that the definition appears to be limited to its use in the context of the term

"statement" and that it is unclear whether the term "benefits" is intended to have different meanings in other contexts.

The Commission disagrees with HL&P's suggestion that the breadth of the definitions of those terms requires a limiting provision as suggested above. The Commission believes that HL&P concern that the definitions will be misapplied is unwarranted. The definitions of "claim" and "statement" are those of the Act itself. The Commission has no cause to believe that it will apply the regulations in a manner inconsistent with Congressional purpose.

With respect to the term "benefit", HL&P is correct that the definition applies only in the context of the term "statement". The definition is that contained in the model rules. It was included as part of those rules to make clear that unlike the statutory definition of claim in which the term "benefit" is a subclass of money, it is not so limited in the context of the term "statement".

HL&P third comment relates to the except clause in § 13.3 (a) and (b) of the regulations. HL&P suggests that the clause be omitted from the paragraphs as unnecessary. Otherwise, it suggests that the word "no" be deleted from § 13.3(c) which states "no proof of specific intent is required to establish liability under this section." The Commission agrees that the except clauses are not necessary and has omitted them from § 13.3 (a) and (b).

For its final comment, HL&P suggests that because of the civil penalty and multiple damage aspects of the remedies provided by the Act, the standard of proof for a finding of liability in § 13.30(b) should be changed from "preponderance of the evidence" to "clear and convincing" evidence. The Commission declines to accept the suggestion. The "preponderance of the evidence" standard is that contained in the model rules. Its adoption is also consistent with Congressional intent. As stated in the cognizant Senate Committee Report on the bill that became the Act "the Committee agrees . . . that 'preponderance of the evidence' is the proper standard for the Program Fraud proceedings." S. Rep. 99-212 at 16.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

The Program Fraud Civil Remedies Act of 1986 (Pub. L. 99-509, 31 U.S.C. 3801-3812) established an administrative remedy for false claims or statements submitted to various agencies. Under the Act, anyone who knowingly submits a false, fictitious, or fraudulent claim to any of these agencies is liable for up to a $5,000 penalty and an assessment of double damages. Each affected agency is required to issue implementing regulations governing the investigation of such claims and their adjudication by the agency. Although the Act did not apply to the NRC at the time of its enactment, its provisions became applicable to the NRC upon later enactment of the Inspector General Act Amendments, Public Law 100-504, October 18, 1988.

The final rule carries out the requirements of the subject Act. It essentially adopts the model rules prepared under the auspices of the President's Council on Integrity and Efficiency. This is in keeping with the expectation of the Senate Governmental Affairs Committee, expressed in its report on the Act, that the agency regulations throughout the Government would be substantively uniform, except as necessary to meet the specific needs of a particular agency or program (S. Rep. No. 99-212, 99th Cong., 1st Sess. 12 (1985)).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule establishes the procedural mechanism for investigating and adjudicating allegations of false claims or statements made against affected agencies. The rule, by itself, does not impose any obligations on entities including any regulated entities that may fall within the definition of "small entities" as set forth in section 601(3) of the Regulatory Flexibility Act, or within the definition of "small business" as found in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards found in 13 CFR part 121. These obligations would not be created until an order is issued, at which time the person subject to the order would have a right to a hearing in accordance with the regulations.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, that a backfit analysis is not required for this rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 13

Claims, Fraud, Organization and function (government agencies), Penalties.

1. Part 13 is added to read as follows:

PART 13—PROGRAM FRAUD CIVIL REMEDIES

Sec.

13.1 Basis and purpose.
13.2 Definitions.
13.3 Basis for civil penalties and assessments.
13.4 Investigation.
13.5 Review by the reviewing official.
13.6 Prerequisites for issuing a complaint.
13.7 Complaint.
13.8 Service of complaint.
13.9 Answer.
13.10 Default upon failure to file an answer.
13.11 Referral of complaint and answer to the ALJ.
13.12 Notice of hearing.
13.13 Parties to the hearing.
13.14 Separation of functions.
13.15 Ex parte contacts.
13.16 Disqualification of reviewing official or ALJ.
13.17 Rights of parties.
13.18 Authority of the ALJ.
13.19 Prehearing conferences.
13.20 Disclosure of documents.
13.21 Discovery.
13.22 Exchange of witness lists, statements, and exhibits.
13.23 Subpoenas for attendance at hearing.
13.24 Protective order.
13.25 Fees.
13.26 Form filing and service of papers.
13.27 Computation of time.
13.28 Motions.
13.29 Sanctions.
13.30 The hearing and burden of proof.
13.31 Determining the amount of penalties and assessments.
13.32 Location of hearing.
13.33 Witnesses.
13.34 Evidence.
13.35 The record.
13.36 Post-hearing briefs.
13.37 Initial decision.
13.38 Reconsideration of initial decision.
13.39 Appeal to authority head.
13.40 Stays ordered by the Department of Justice.
13.41 Stay pending appeal.
13.42 Judicial review.

Sec.
13.43 Collection of civil penalties and assessments.
13.44 Right to administrative offset.
13.45 Deposit in Treasury of United States.
13.46 Compromise or settlement.
13.47 Limitations.

Authority: Public Law 99-509, secs. 6101-6104, 100 Stat. 1874 (31 U.S.C. 3801-3812).

§ 13.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law No. 99-509, §§ 6101-6104, 100 Stat. 1874 (October 21, 1986) (31 U.S.C. 3801-3812). 31 U.S.C. 3809 requires each authority head to promulgate regulations necessary to implement the provisions of that Act.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (2) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 13.2 Definitions.

As used in this part:

ALJ means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

Authority means the Nuclear Regulatory Commission.

Authority head means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974 (88 Stat. 1242).

Benefit means, in the context of "statement", anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 13.7.

Defendant means any person alleged in a complaint under § 13.7 to be liable for a civil penalty or assessment under § 13.3.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 13.10 or § 13.37, and includes a revised initial decision issued following a remand or a motion for reconstruction.

Investigating official means the Inspector General of the Nuclear Regulatory Commission or the Assistant Inspector General for Investigations, Office of the Inspector General.

Knows or has reason to know means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made* shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

Representative means any person designated by a party in writing.

Reviewing official means the Deputy General Counsel for Licensing and Regulation of the Nuclear Regulatory Commission or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official;

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from, the authority, or any State, political subdivision of a State, or other party, if the United States government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 13.3 Basis for civil penalties and assessments.

(a) *Claims.*

(1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided was claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary or other entity, including any State or political subdivision thereof, acting for or on

behalf of the authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.*

(1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the authority.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 13.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official. To the extent possible, before initiating an investigation or submitting a report involving a licensee false statement to the reviewing official, the investigating official shall consult with the Executive Director for Operations to ascertain whether any other agency action is under consideration, pending, or may be taken with regard to the licensee, and to allow for coordination between any action under this part and other enforcement action.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to refer the matter to the Executive Director for Operations for enforcement action under the Atomic Energy Act, or to defer initiating an investigation or postpone a report or referral to the reviewing official to avoid interference with other enforcement action by the Commission or with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 13.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 13.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 13.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 13.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 13.3 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

§ 13.6 Prerequisities for issuing a complaint.

(a) The reviewing official may issue a complaint under § 13.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 13.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property of services demanded or requested in violation of § 13.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 13.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance

with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 13.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 13.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 13.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete under receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his or her representative.

§ 13.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. Service of an answer shall be made by delivering a copy to the reviewing official or by placing a copy in the United States mail, postage prepaid and addressed to the reviewing official. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 13.11. for good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 13.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 13.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 13.8 a notice that an initial decision will be issued under this section.

(c) The ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 13.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 13.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 13.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 13.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 13.8. At the same time, the ALJ shall send a copy of such notice to the representative of the authority.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the authority and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 13.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 13.14 Separation of functions.

(a) The investigation official, the reviewing official, and any employee or agent of the authority who takes part in investigation, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 13.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 13.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections, shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of its review of the initial decision upon appeal, if any.

§ 13.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulation of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 13.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find Federal statutes or regulations invalid.

§ 13.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 13.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and

other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 13.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 13.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 13.9.

§ 13.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 13.22 and 13.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.*

(1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 13.24.

(3) The ALJ may grant a motion for discovery only if he or she finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 13.24.

(e) *Depositions.*

(1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 13.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 13.22 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other times as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 13.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there in no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 13.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 13.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 13.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence by sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 13.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 13.26 Form filing and service of papers.

(a) *Form.*

(1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (*e.g.*, motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 13.8 shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid and addressed, to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 13.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional five days will be added to the time permitted for any response.

§ 13.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 13.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 13.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 13.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 13.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted,

ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 13.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 13.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 13.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 13.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided in this part, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 13.24.

§ 13.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests

filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 13.24.

§ 13.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 13.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 13.3; and

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 13.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 13.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 13.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 13.39.

§ 13.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b)(1) A notice of appeal may be filed at any time within 30 days after the ALJ issues an initial decision. However, if another party files a motion for reconsideration under § 13.38, consideration of the appeal shall be stayed automatically pending resolution of the motion for reconsideration.

(2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) The authority head may extend the initial 30 day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head and the time for filing motions for reconsideration under § 13.38 has expired, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at each hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 13.3 is final and is not subject to judicial review.

§ 13.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the

process resumed only upon receipt of the written authorization of the Attorney General.

§ 13.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 13.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 13.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 13.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 13.42 or § 13.43, or any amount agreed upon in a compromise or settlement under § 13.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 13.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 13.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 13.42 or during the pendancy of any action to collect penalties and assessments under § 13.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendancy of any review under § 13.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating officer may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 13.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 13.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to serve a timely answer, service of a notice under § 13.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated at Rockville, Maryland, this 12th day of September 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-22446 Filed 9-17-91; 8:45 am]

BILLING CODE 7590-01-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1705

[Docket No. RM-91-2]

Rules Implementing the Privacy Act

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Final rule.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974, 5 U.S.C. 552a, to promulgate rules which set forth procedures by which individuals can examine and request correction of agency records containing personal information. In this notice the Board promulgates a rule to satisfy that requirement.

EFFECTIVE DATE: October 18, 1991.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, N.W., suite 700, Washington, DC 20004, (202) 208-6387.

SUPPLEMENTARY INFORMATION: Section (f) of the Privacy Act of 1974, 5 U.S.C. 552a(f), requires each Federal agency to promulgate rules which, in the main, set forth procedures by which individuals can examine and request correction of agency records containing personal information. The Board, a Federal agency established by the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456), is therefore obligated to publish such regulations. The Board has previously published notices in the **Federal Register** regarding its systems of records covered by the Privacy Act.

The Board published a proposed rule on August 12, 1991 (56 FR 38089). No comments were received. The Board is making one change to the proposed rule on its own initiative. § 1705.11, "Exemptions," previously read: "The Board has not invoked any of the Privacy Act exemptions. Should it do so in the future, this section will be amended." The Board has invoked the Privacy Act exemptions for system of records DNFSB-3, "Drug Testing Program Records." Section 1705.11 has been modified to reflect this exemption.

List of Subjects in 10 CFR Part 1705

Privacy Act.

Chapter XVII of title 10 of the Code of Federal Regulations is amended by adding a part 1705 to read as follows:

CHAPTER XVII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

PART 1705—PRIVACY ACT

Sec.
1705.01 Scope.
1705.02 Definitions.
1705.03 Systems of records notification.
1705.04 Requests by persons for access to their own records.
1705.05 Processing of requests.
1705.06 Appeals from access denials.
1705.07 Requests for correction of records.
1705.08 Appeals from correction denials.
1705.09 Disclosure of records to third parties.
1705.10 Fees.
1705.11 Exemptions.

Authority: 5 U.S.C. 552a(f).

§ 1705.01 Scope.

This part contains the Board's regulations implementing the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a.

§ 1705.02 Definitions.

The following terms used in these regulations are defined in the Privacy Act, 5 U.S.C. 552a(a): *agency, individual, maintain, record, system of records, statistical record,* and *routine use.* The

Board's use of these terms conforms with the statutory definitions. References in this part to "the Act" refer to the Privacy Act of 1974.

§ 1705.03 Systems of records notification.

(a) *Public notice.* The Board has published in the **Federal Register** its systems of records. The Office of the Federal Register biennially compiles and publishes all systems of records maintained by all Federal agencies, including the Board.

(b) *Requests regarding record systems.* Any person who wishes to know whether a system of records contains a record pertaining to him or her may file a request in person or in writing. Written requests should be directed to: Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. Telephone requests should be made by calling the Board at 202-208-6400, and asking to speak to the Privacy Act Officer.

§ 1705.04 Requests by persons for access to their own records.

(a) *Requests in writing.* A person may request access to his or her own records in writing by addressing a letter to: Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004. The request should contain the following information:

(1) Full name, address, and telephone number of requester,

(2) Proof of identification, which should be a copy of one of the following: Valid driver's license, valid passport, or other current identification which contains both an address and picture of the requester,

(3) The system of records in which the desired information is contained, and

(4) At the requester's option, authorization for copying expenses (see § 1705.10 below).

(b) *Requests in person.* Any person may examine his or her own records on the Board's premises. To do so, the person should call the Board's offices at 202-208-6400 and ask to speak to the Privacy Act Officer. This call should be made at least two weeks prior to the time the requester would like to see the records. During this call, the requester should be prepared to provide the same information as that listed in paragraph (a) of this section, except for proof of identification.

§ 1705.05 Processing of requests.

(a) *Requests in writing.* The Privacy Act Officer will acknowledge receipt of the request within five working days of its receipt in the Board's offices. The acknowledgment will advise the requester if any additional information is needed to process the request. Within fifteen working days of receipt of the request, the Privacy Act Officer will provide the requested information or will explain to the requester why additional time is needed for response.

(b) *Requests in person.* Following the initial call from the requester, the Privacy Act Officer will determine (1) whether the records identified by the requester exist, and (2) whether they are subject to any exemption under § 1705.11 below. If the records exist and are not subject to exemption, the Privacy Act Officer will call the requester and arrange an appointment at a mutually agreeable time when the records can be examined. The requester may be accompanied by one person of his or her own choosing, and should state during this call whether or not a second individual will be present at the appointment. At the appointment, the requester will be asked to present identification as stated in § 1705.04(a)(2).

(c) *Excluded information.* If a request is received for information compiled in reasonable anticipation of litigation, the Privacy Act Officer will inform the requester that this information is not subject to release under the Privacy Act (*see* 5 U.S.C. 552a(d)(5)).

§ 1705.06 Appeals from access denials.

When access to records has been denied by the Privacy Act Officer, the requester may file an appeal in writing. This appeal should be directed to The Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., suite 700, Washington, DC 20004. The appeal letter must (a) specify those denied records which are still sought, and (b) state why the denial by the Privacy Act Officer is erroneous. The Chairman or his designee will respond to such appeals within twenty working days after the appeal letter has been received in the Board's offices. The appeal determination will explain the basis for continuing to deny access to any requested records.

§ 1705.07 Requests for correction of records.

(a) *Correction requests.* Any person is entitled to request correction of a record pertaining to him or her. This request must be made in writing and should be addressed to Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. The letter should clearly identify the corrections desired. An edited copy of the record will usually be acceptable for this purpose.

(b) *Initial response.* Receipt of a correction request will be acknowledged by the Privacy Act Officer in writing within five working days of receipt of the request. The Privacy Act Officer will endeavor to provide a letter to the requester within thirty working days stating whether or not the request for correction has been granted or denied. If the Privacy Act Officer decides to deny any portion of the correction request, the reasons for the denial will be provided to the requester.

§ 1705.08 Appeals from correction denials.

(a) When amendment of records has been denied by the Privacy Act Officer, the requester may file an appeal in writing. This appeal should be directed to The Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004. The appeal letter must (1) specify the records subject to the appeal, and (2) state why the denial of amendment by the Privacy Act Officer is erroneous. The Chairman or his designee will respond to such appeals within thirty working days (subject to extension by the Chairman for good cause) after the appeal letter has been received in the Board's offices.

(b) The appeal determination, if adverse to the requester in any respect, will: (1) Explain the basis for denying amendment of the specified records, (2) inform the requester that he or she may file a concise statement setting forth reasons for disagreeing with the Chairman's determination, and (3) inform the requester of his or her right to pursue a judicial remedy under 5 U.S.C. 552a(g)(1)(A).

§ 1705.09 Disclosure of records to third parties.

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except in the following circumstances:

(a) Their release is required under the Freedom of Information Act in accordance with the Board's FOIA regulations, 10 CFR part 1703;

(b) Prior consent for disclosure is obtained in writing from the individual to whom the records pertain; or

(c) Release is authorized by 5 U.S.C. 552a(b) (1) or (3) through (11).

§ 1705.10 Fees.

A fee will not be charged for search or review of requested records, or for correction of records. When a request is made for copies of records, a copying fee will be charged at the same rate established for FOIA requests. *See* 10

CFR 1703.107. However, the first 100 pages of copying will be free of charge.

§ 1705.11 Exemptions.

Pursuant to 5 U.S.C. 552a(k), the Board has determined that system of records DNFSB-3, "Drug Testing Program Records," is partially exempt from 5 U.S.C. 552(a)(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). The exemption pertains to portions of these records which would identify persons supplying information on drug abuse by Board employees or contractors.

Dated: September 13, 1991.

John T. Conway,

Chairman.

[FR Doc. 91-22499 Filed 9-17-91; 8:45 am]

BILLING CODE 6820-KC-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Shuttle

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule.

SUMMARY: NASA is amending 14 CFR part 1214 by changing the part to read "Space Shuttle," and by revising subpart 1214.9; "Use of Small Self-Contained Payloads," to change any reference to "Space Transportation System (STS)" to read "Space Shuttle," and to make current the prices for launch support of Small Self-Contained Payloads (SSCP's) by adjusting previous prices to compensate for the impact of inflation from fiscal years 1975 through 1991. In addition, this revision clarifies NASA's policy on reimbursements, flight scheduling, provision of optional services, and reflight guarantees; and further enunciates ground rules on the transfer of ownership, apportionment, and assignment of services. These amendments are needed to ensure efficient allocation and effective use of limited flight opportunities among three groups of users—educational, commercial, and governmental.

DATES: This rule is effective September 18, 1991. Any comments must be received on or before October 18, 1991.

ADDRESSES: Comments may be mailed to the Office of Space Flight, Code MC, NASA Headquarters, Washington, DC 20546, or delivered to room 355, Federal Building 10B, 600 Independence Avenue, SW., Washington, DC 20546, between 8 a.m. and 4 p.m. Comments received may be inspected in room 355 between 8 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Robert L. Tucker, 202/453-2347.

SUPPLEMENTARY INFORMATION: On November 4, 1980, NASA published its final rule, 14 CFR part 1214 subpart 1214.9, "Space Transportation System; Use of Small Self-Contained Payloads," in the **Federal Register** (45 FR 73022-73027). This amendment makes some word changes for clarity; establishes new restrictions on transfer, apportionment, and assignment of services; deletes all references to "Space Transportation System" by substituting "Space Shuttle"; and provides adjusted prices for flight of Small Self-Contained Payloads (SSCP's) by taking into account the impact of inflation.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act; 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small business entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1214

Government employees, Security measures, Space shuttle.

PART 1214—SPACE SHUTTLE

For reasons set forth in the Preamble, 14 CFR part 1214 is amended as follows:

1. The authority citation for 14 CFR part 1214 continues read as follows:

Authority: Sec. 203; Pub. L. 85-568, 72 Stat. 429, as amended (42 U.S.C. 2473).

2. The heading for Part 1214 is revised to read as set forth above.

3. Section 1214.900 is revised to read as follows:

§ 1214.900 Scope.

This subpart sets forth the policy on Space Shuttle services that are provided by NASA to users of Small Self-Contained Payloads (SSCP's).

4. Section 1214.901 is revised to read as follows:

§ 1214.901 Relation to Subparts 1214.1 and 1214.2.

This Subpart governs the provision of Space Shuttle services for SSCP's; subparts 1214.1 and 1214.2 are not applicable.

5. Section 1214.904 is amended by revising paragraphs (b)(2), and (b)(3) to read as follows:

§ 1214.904 Reimbursement policy.

* * * * *

(b) Reimbursement by non-NASA users.

(2) The price for all payloads not covered by § 1214.910 shall be as designated below.

PRICE FOR STANDARD SERVICES

Weight		Volume		Price
Pounds	Kilograms	Cu. ft.	Cu. Meters	
200	90.72	5.0	0.142	$27,000
100	45.36	2.5	0.071	14,000
60	27.22	2.5	0.071	8,000

(3) Subsequent to FY 1991, NASA may adjust the prices for the flight of SSCP's. Such adjustments shall not affect launch services agreements already in force. Except as provided for in § 1214.910, prices charged shall be the price in effect at the time of signing of the launch services agreement.

* * * * *

6. Section 1214.905 is amended by revising paragraphs (b), introductory text, and (f) to read as follows:

§ 1214.905 Flight scheduling.

* * * * *

(b) Signing of a launch services agreement and NASA's receipt of the first progress payment shall enter the payload covered by the agreement into a flight assignment queue. The payload's position in this queue shall be determined as follows:

* * * * *

(f) NASA shall not be obligated to perform any standard or optional services, including flight scheduling and placement of the payload on the Shuttle, if the user has not signed the Addendum to the launch services agreement and has not made all payments current according to the provisions of § 1214.904(b).

* * * * *

7. Section 1214.906 is amended by revising paragraphs (a) and (e) and adding paragraph (f) as follows:

§ 1214.906 Transfer of ownership, apportionment, and assignment of services.

(a) Prior to the signing of a launch services agreement, users shall be permitted a one-time transfer, to a third party, of ownership of the eligibility to enter into negotiations with NASA for the flight of a SSCP, subject to NASA approval of the transfer. Subsequent transfers by the third party shall not be allowed.

* * * * *

(e) NASA shall negotiate with only one responsible person or entity for the use of each NASA container. At the time the launch services agreement is

negotiated, the user shall identify a single payload manager for the entire payload to be flown in the container.

(f) All requests relating to transfer of ownership, apportionment, or assignment of services must be made in writing to the Director of Transportation Services, and must: (1) Be signed by an authorized representative of the owner of record; and (2) be signed by an authorized representative of all other parties involved in the transaction acknowledging and accepting the provisions of the relevant launch services agreement and this subpart 1214.9 (and, for ownership transfers, acknowledgment that no further transfers are allowed).

8. Section 1214.907 is revised to read as follows:

§ 1214.907 Reflight.

(a) NASA will provide a one-time reflight of the user's payload at no additional charge for SSCP standard services, if all the following occur:

(1) Through no fault of the user (including all the user's related entities, such as the user's contractors, subcontractors, agents, and assignees), the standard SSCP systems are not within nominal specifications, as measured by NASA, at the time of first turn-on in orbit of the user's payload.

(2) The user's mission objective(s) is/are not achieved solely as a direct result of the occurrence, at the time of first turn-on of the user's payload, of events described in paragraph (a)(1) of this section.

(3) The payload returns safely to Earth, or a second, essentially identical, payload is provided by the user.

(b) Users entitled to a reflight shall be provided with a dollar credit towards future optional SSCP services, or a refund, for any unused optional SSCP services purchased and paid for on the Shuttle flight which entitles the user to a reflight.

9. Section 1214.909 is revised to read as follows:

§ 1214.909 Damage to payloads.

The user's price does not include a contingency or premium for damage that may be caused to a payload through the fault of the U.S. Government, its contractors, or other Space Shuttle users. The U.S. Government, therefore, shall assume no risk for damage or loss to the user's payload. The user shall assume that risk or obtain insurance protection against that risk. The user and anyone transferred, apportioned, or assigned the launch services will be required to agree to the cross-waiver of liability in the launch services agreement.

10. Section 1214.910 is amended by revising the heading, paragraphs (a), (b), and (c) to read as follows:

§ 1214.910 Special provisions for users whose earnest money deposits or letters of intent were accepted prior to the effective date of this final rule.

(a) Within 30 days after publication of this final rule, NASA shall supply a copy of the rule to all users whose earnest money deposits or letters of intent were accepted prior to the effective date of the final rule.

(b) Such users may request in writing a refund of their earnest money provided the request is received by NASA within 90 days following publication of this final rule. There shall be no subsequent refund of earnest money.

(c) The price for all payloads for which both (1) earnest money or a letter of intent had been accepted prior to the effective date of this final rule, and (2) a launch services agreement is signed and an initial payment is received on or before 90 days after publication of this final rule shall be as follows:

PRICE FOR STANDARD SERVICES

Weight		Volume		Price
Pounds	Kilograms	Cu. ft.	Cu. Meters	
200	90.72	5.0	0.142	$10,000
100	45.36	2.5	0.071	5,000
60	27.22	2.5	0.071	3,000

* * * * *

11. Section 1214.911 is amended by changing the "STS" reference to "Space Shuttle" in paragraphs (l) and (m) to read as follows:

§ 1214.911 Small self-contained payload standard services.

* * * * *

(l) On-orbit payload operational time consistent with the primary Space Shuttle mission.

(m) Brief postflight documentation of the Space Shuttle mission profile and payload operational times.

* * * * *

12. Section 1214.912 is revised to read as follows:

§ 1214.912 Small self-contained payload optional services.

(a) NASA may, at its sole discretion, approve or deny the provision of optional services to users. The price, terms, and conditions for such services shall be negotiated on a case-by-case basis.

(b) Users should be aware that requests for optional services can result in substantial additional charges and increased liability insurance requirements and/or affect NASA's ability to manifest the payload.

Dated: September 10, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 91-22280 Filed 9-17-91; 8:45 am]

BILLING CODE 7510-01-M

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14 CFR Part 1214

Space Shuttle

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR part 1214 by revising subpart 1214.17, "Space Flight Participants." This revision changes any reference to "Space Transportation System (STS)" to read "Space Shuttle." The effect of this amendment is to clarify NASA's policy by limiting Space Shuttle flight opportunities for other than professional NASA astronauts and payload specialists to those situations where the presence of such personnel contributes to approved NASA objectives or is in the national interest. Persons selected are designated as Space Flight Participants. This amendment is not a solicitation of applications to participate in space flight.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Robert L. Tucker, 202/453-2347.

SUPPLEMENTARY INFORMATION: On April 6, 1984, NASA published its final rule, 14 CFR part 1214 subpart 1214.17, "Space Flight Participants," in the **Federal Register** (49 FR 17736-17739). This amendment revises § 1214.1700, § 1214.1703 paragraphs (a) and (b), and § 1214.1704 paragraphs (a) and (d), by clarifying the NASA committee and NASA policy, respectively, involving space flight participants.

Since this action is administrative in nature and involves agency policy management procedures, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small business entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1214

Government employees, Security measures; Space shuttle.

PART 1214—SPACE SHUTTLE

For reasons set forth in the Preamble, 14 CFR part 1214 is amended as follows:

1. The authority citation for 14 CFR part 1214 subpart 1214.17 continues to read as follows:

Authority: 42 U.S.C. 2473 and the National Aeronautics and Space Act of 1985, as amended.

2. Section 1214.1700 is revised to read as follows:

§ 1214.1700 Scope.

This subpart establishes NASA policy and selection procedures for accommodation of space flight participants aboard flights of the Space Shuttle.

3. Section 1214.1703 is revised to read as follows:

§ 1214.1703 Definitions.

(a) *Space flight participants.* All persons whose presence aboard a Space Shuttle flight is authorized in accordance with this regulation.

(b) *Committee.* The Space Flight Participant Evaluation Committee, established in NASA Headquarters for the purpose of directing and administering the program for space flight participants. The Committee consists of the following NASA Headquarters officials: Associate Deputy Administrator (Chair), General Counsel, Associate Administrator for External Relations, Associate Administrator for Management, Associate Administrator for Space Flight, Associate Administrator for Public Affairs and Assistant Administrator for Equal Opportunity Programs.

4. Section 1214.1704 is amended by revising paragraphs (a) and (d) as follows:

§ 1214.1704 Policy.

(a) NASA policy is to provide Space Shuttle flight opportunities to persons (individuals outside the professional categories of NASA astronauts and payload specialists) whose presence onboard the Space Shuttle is not required for operation of payloads or for other essential mission activities, but is determined by the Administrator of NASA to contribute to other approved NASA objectives or to be in the national interest. However, flight opportunities for space flight participants will not be available in the near term. NASA will assess Shuttle operations and mission and payload requirements on an annual basis to determine when it can begin to allocate and assign space flight opportunities for future space flight participants, consistent with safety and mission considerations. When NASA determines that a flight opportunity is available for a space flight participant, first priority will be given to a "teacher in space," in fulfillment of space education plans.

* * * * *

(d) Typically the selection of space flight participants will be based on their comparative abilities to fulfill the objectives and purposes stated in Announcement of Opportunities (AO's) covering one or more Space Shuttle missions in which their participation is desired. A NASA-designated outside review panel will evaluate the qualifications of applicants to select those who most appropriately meet those purposes of participant flight associated with the particular AO. NASA will retain the authority to make final selection of space flight participants for flight training and eventual flight from among those applicants rated most highly in the review process. NASA will encourage the participation of a wide and diverse array of participants, including women and minorities.

Dated: September 10, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 91-22279 Filed 9-17-91; 8:45 am]

BILLING CODE 7510-01-M

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14 CFR Parts 1214 and 1217

Duty-Free Entry of Space Articles

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR part 1214 by removing and reserving subpart 1214.15, "Duty-Free Entry of Space Articles," and is making that regulation a new part 1217. The new part 1217 prescribes NASA's policy and procedures with respect to: Certification regarding the duty-free entry of (a) articles imported into the United States for launch into space by NASA, including spare parts, or (b) necessary and uniquely associated support equipment imported in connection with a space launch; and the non-entry status of articles returned from space by NASA.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: William J. Bierbower, 202-453-2443.

SUPPLEMENTARY INFORMATION: NASA is amending 14 CFR chapter V by removing and reserving 14 CFR part 1214 subpart 1214.15 and making that regulation a new part 1217. Moving subpart 1214.15 as a separate part 1217 is necessary because part 1214 is being retitled as "Space Shuttle," in place of "Space Transportation System." Because NASA launches on expendable launch vehicles as well as the Space Shuttle, it is necessary to avoid the potential misunderstanding that these regulations regarding duty-free entry of foreign articles apply only to Space Shuttle launches. Therefore, the duty-free provisions will now be separate from part 1214.

While §§ 1217.100, 1217.102, 1217.103, 1217.104, 1217.105, and 1217.106 are being changed to reflect current Agency structure and operations, no substantive changes are being made to this regulation at this time. Authority citations are being revised to correspond to current statutes. Since this revision involves internal administrative decisions and editorial changes, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1217

Customs duties and inspection, Space transportation and exploration.

For reasons set out in the Preamble, 14 CFR chapter V is amended by redesignating 14 CFR Subpart 1214.15 as a new part 1217 to read as follows:

PART 1217—DUTY-FREE ENTRY OF SPACE ARTICLES

Sec.

1217.100 Scope.
1217.101 Applicability.
1217.102 Background.
1217.103 Authority to certify.
1217.104 Procedures.
1217.105 Necessary and uniquely associated support equipment.
1217.106 Articles returned from space by NASA.

Authority: Sections 116 and 156 of Pub. L. 97-446, 96 Stat. 2335-2336 and 2345-2346, as amended by section 124(a)(3) of Pub. L. 98-573, 98 Stat. 2976.

PART 1217—DUTY-FREE ENTRY OF SPACE ARTICLES

§ 1217.100 Scope.

(a) This Part sets forth NASA's policy and procedures with respect to the use of the Administration's authority to certify to the U.S. Commissioner of Customs, for the purpose of duty-free entry of articles into the United States, that such articles to be imported will be launched into space, or are spare parts for such articles, or such articles are necessary and uniquely associated support equipment for use in connection with a launch into space; and to the non-entry status of articles returned from space by NASA.

(b) Communications satellites and parts thereof are not eligible for NASA certification under this Part but may be eligible for duty-free entry pursuant to Subheading 8802.50.30 of the Harmonized Tariff Schedule of the United States.

§ 1217.101 Applicability.

This Part applies to qualifying articles entered or withdrawn from warehouse for consumption in the customs territory of the United States through December 31, 1994, and to articles returned from space by NASA.

§ 1217.102 Background.

In order to encourage and facilitate the use of NASA's launch services for the exploration and use of space, section 116 of Public Law 97–446 provides for the duty-free entry into the United States of certain articles that meet the following two conditions. First, the articles must be imported for NASA for its space-related activities or the articles must be imported by another person or entity for the purpose of meeting its obligations under a launch services agreement with NASA. Second, NASA must certify to the Commissioner of Customs that the articles to be entered duty-free are to be imported to be launched into space or are spare parts or necessary and uniquely associated support equipment for use in connection with a launch into space. This exemption from duty is provided for in Subheading 9808.00.80, Harmonized Tariff Schedule of the United States [HTSUS] (19 U.S.C. 1202). Also, HTSUS, Chapter VIII, page 98–25, pursuant to section 116 of Public Law 97–446, provides that return of articles by NASA from space to the United States will not be considered an importation, and thus will not be subject to a duty.

§ 1217.103 Authority to certify.

(a) The following NASA officials and their deputies are authorized, under the conditions described herein, to make the certification to the Commissioner of Customs required for the duty-free entry of space articles pursuant to subheading HTSUS 9808.00.80. No further redelegation is authorized.

(1) The NASA Assistant Administrator for Procurement is authorized to issue the certification for articles imported into the United States which are procured by NASA or by other U.S. Government agencies, or by U.S. Government contractors or subcontractors when title to the articles is or will be vested in the U.S. Government pursuant to the terms of the contract or subcontract. Requests for certification should be sent to: Assistant Administrator for Procurement, Attn: HP/Director, Procurement Policy Division, National Aeronautics and Space Administration, Washington, DC 20546.

(2) The NASA Associate Administrator for External Relations is authorized to issue the certification for articles imported into the United States pursuant to international cooperative agreements. Requests for certification should be sent to: Associate Administrator for External Relations, Attn: XI/Director, International Relations Division, National Aeronautics and Space Administration, Washington, DC 20546.

(3) The NASA Associate Administrator for Space Flight is authorized to issue the certification for articles imported into the United States by persons or entities or under agreements other than those identified in paragraphs (a)(1) and (a)(2) of this section. Requests for certification should be sent to: Associate Administrator for Space Flight, Attn: MC/Director, Customer Services Division, National Aeronautics and Space Administration, Washington, DC 20546.

(b) Each request for certification shall receive the concurrence of the Office of the NASA Chief Financial Officer (CFO)/Comptroller and the Office of the General Counsel. All non-procurement certifications will also receive the concurrence of any affected Program Office(s).

(c) To the extent an authorized NASA official approves a request for certification, that official shall sign a certificate in the following form:

Articles for the National Aeronautics and Space Administration, HTSUS 9808.00.80.

I certify that the articles identified in _____ (attached) are articles to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space, in accordance with Subheading 9808.00.80 of the Harmonized Tariff Schedules of the United States.

Name _____

Date _____

(d) A blanket certificate for one or more launches for a launch customer is authorized but shall require written verification by a NASA official designated by a Director of a receiving NASA Installation that the articles imported meet the conditions of the certificate. The blanket certificate shall be in the following form but may be reasonably revised to accord with the circumstances:

Articles for the National Aeronautics and Space Administration. HTSUS Subheading 9808.00.80.

I certify that the articles for the launch of _____ payload(s) pursuant to the NASA Launch and Associated Services Agreement No. _____, dated _____ with _____, are articles to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space, in accordance with Subheading 9808.00.80 of the Harmonized Tariff Schedule of the United States. The necessary and uniquely associated support equipment is identified in _____ attached.

Before this certificate is used to obtain duty-free entry of these articles, a cognizant NASA official at the receiving NASA Installation who is designated by the Installation Director shall verify in writing that specifically identified articles to be entered on a particular date are the articles described in this certificate. This verification and this certificate shall be presented to the U.S. Customs Service at the time entry for the particular articles is sought.

Name _____

Date _____

With respect to articles represented to be necessary and uniquely associated support equipment, the NASA official issuing the blanket certificate shall review these articles and approve their eligibility for duty-free entry. A description of these articles should be referred to in the blanket certificate and should be attached to it.

§ 1217.104 Procedures.

(a) Request for certification shall be forwarded to the appropriate NASA official who has authority to certify as provided for in § 1217.103 of this part.

(b) Each request for certification shall be accompanied by:

(1) A proposed certificate as provided for in § 1217.103 of this part;

(2) The information and documentation required by 19 CFR 10.102(a);

(3) A statement with respect to each article (or each class of articles if all items in the class are substantially

identical) to establish whether, under a launch services agreement with NASA, the article (i) is to be launched into space; or (ii) is a spare part to an article to be launched into space; or (iii) is necessary and uniquely associated support equipment for use in connection with a launch into space. Identify the launch services agreement, launch vehicle, and launch date(s).

(4) If the article is represented to be necessary and uniquely associated support equipment for use in connection with a launch into space, explain, with respect to each such article or each such class of articles to be imported, (i) why it is necessary and unique; and (ii) if the article may be used in connection with an activity other than a launch into space, whether or not it is intended to be so used. If it may be used in such other activity, NASA shall require of non-U.S. Government agencies, as a condition to obtaining duty-free entry under this subpart, that the customer agree in the relevant launch agreement not to use or in any manner dispose of those articles in the United States other than in connection with a launch into space; and

(5) The anticipated date of entry and port of entry for each article. If the article is to be transported in bond from the port of arrival to another port of entry in the United States, identify both ports.

(c) The signed certificate and its attachment will be forwarded to the NASA Installation responsible for duty-free entry of the materials. The procedures specified in 19 CFR 10.102 will be followed by the NASA Installation in obtaining duty-free entry at the Customs port of entry. The NASA Installation should ensure that, at the time the articles are to be released after Customs entry, the custody of the imported articles is transferred directly from the carrier or from the U.S. Customs Service to the NASA launch service customer or its agent.

(d) If articles procured under contract by NASA are imported prior to compliance with these procedures and it is essential that the articles be released from Customs custody prior to such compliance, the procedures outlined in 19 CFR 10.101 may be followed by cognizant NASA officials to secure the release of the articles from Customs custody. To the extent applicable, the procedures in § 1217.104 of this part shall be followed when time permits to obtain duty-free entry for the articles released from Customs custody.

§ 1217.105 Necessary and uniquely associated support equipment.

The NASA certifying officer should consider the following criteria in determining whether an article is necessary and uniquely associated support equipment for use in connection with a launch into space. Applicability of one or more of the following nonexclusive criteria lends support to the conclusion that the article is necessary and uniquely associated support equipment.

(a) The article has been designed and manufactured solely to support (1) the launch or return of a launch vehicle, spacecraft (including Space Station), or payload; or (2) the operations or use in space of a launch vehicle, spacecraft (including Space Station), or payload.

(b) A standard article has been modified in a substantial and extraordinary way, considering its physical or functional characteristics, solely to support (1) the launch or return of a launch vehicle, spacecraft (including Space Station), or payload; or (2) the operations or use in space of a launch vehicle, spacecraft (including Space Station), or payload.

(c) The article's potential use is solely to support (1) the launch or return of a launch vehicle, spacecraft (including Space Station), or payload; or (2) the operations or use in space of a launch vehicle, spacecraft (including Space Station), or payload.

(d) The article is available only from a source outside of the United States.

(e) The article is a component of a system purchased outside of the United States.

(f) The article is to be exported from the United States upon completion of its use as support equipment.

§ 1217.106 Articles returned from space by NASA.

Pursuant to section 116 of Public Law 97-446, and HTSUS chapter VIII, page 98-25, the return of articles from space by NASA shall not be considered an importation, and an entry of such materials through U.S. Customs shall not be required. This provision is applicable to articles returned from space whether or not the articles were launched into space aboard a NASA vehicle.

Dated: September 10, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 91-22281 Filed 9-17-91; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. 87P-0161]

Medical Devices; Reclassification and Codification of Absorbable Poly(Glycolide/L-Lactide) Surgical Suture

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the reclassification and codification of the absorbable poly(glycolide/L-lactide) surgical suture (PGL suture). FDA issued an order in the form of a letter to the manufacturer reclassifying the PGL suture from class III into class II.

EFFECTIVE DATES: The reclassification was effective October 4, 1989. This final rule becomes effective October 18, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: On May 4, 1987, FDA filed the reclassification petition submitted by Advanced Bioresearch Associates, Danville, CA 94526-4617, on behalf of United States Surgical Corp. (U.S. Surgical), Norwalk, CT 06856, requesting reclassification of the PGL suture from class III into class II.

FDA bases its decision to reclassify PGL sutures, in part, on the recommendation of the General and Plastic Surgery Devices Panel (the Panel). The Panel, during an open public meeting on August 28, 1987, recommended that FDA reclassify the PGL suture from class III into class II and that FDA assign a low priority to the development of a performance standard for the generic type of device under section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d).

FDA fully considered the Panel's recommendation, and reviewed various statements offered by persons who oppose U.S. Surgical's petition for reclassification of the PGL suture. After reviewing all data in the petition and presented before the Panel, and after considering the Panel's recommendation, FDA ordered the reclassification of the PGL suture from class III into class II. On September 14, 1989, FDA sent to the petitioner an

order, by letter, which reclassified the PGL suture, and substantially equivalent devices of this generic type, from class III into class II, to be effective on October 4, 1989, with a low priority for the development of a performance standard.

On November 2, 1989, Ethicon, Inc., submitted a petition for reconsideration. FDA conducted a thorough and careful review of all arguments, particularly those alleging that the record evidence was inadequate to support the reclassification of the PGL suture. Additionally, U.S. Surgical's comments on Ethicon's reconsideration petition and Ethicon's response to U.S. Surgical's comments were considered. On July 5, 1990, FDA issued an order denying the petition for reconsideration.

FDA has completed its review of the petition for reconsideration and concluded that the generic type of device, the PGL suture, and all devices substantially equivalent to this generic type were appropriately reclassified from class III into class II with a low priority for the development of a performance standard.

As required by 21 CFR 860.136(b)(6), FDA is announcing the reclassification of the generic type of device from class III into class II.

List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

1. The authority citation for 21 CFR part 878 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. New § 878.4493 is added to subpart E to read as follows:

§ 878.4493 Absorbable poly(glycolide/L-lactide) surgical suture.

(a) *Identification.* An absorbable poly(glycolide/L-lactide) surgical suture (PGL suture) is an absorbable sterile, flexible strand as prepared and synthesized from homopolymers of glycolide and copolymers made from 90 percent glycolide and 10 percent L-lactide, and is indicated for use in soft tissue approximation. A PGL suture meets United States Pharmacopeia (U.S.P.) requirements as described in the U.S.P. "Monograph for Absorbable Surgical Sutures;" it may be monofilament or multifilament (braided) in form; it may be uncoated or coated; and it may be undyed or dyed with an FDA-approved color additive. Also, the suture may be provided with or without a standard needle attached.

(b) *Classification.* Class II.

Dated: August 13, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-22502 Filed 9-17-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS ANZIO (CG 68) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 4, 1991.

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS ANZIO (CG 68) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval cruiser. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 amended by adding to the end of the table the following vessel:

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* * * * *		*		*	
USS ANZIO	CG 68	—	X	X	38

Dated: September 4, 1991.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy Judge Advocate General.

[FR Doc. 91-22414 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS PATRIOT (MCM 7) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a mine countermeasures ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 4, 1991.

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PATRIOT (MCM-7) is a naval vessel which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a Naval vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding to the end of the table the following vessel:

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained.
* * * * *		*		*	
USS PATRIOT	MCM 7			X	64

Dated: September 4, 1991.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy Judge Advocate General.

[FR Doc. 91-22415 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge-Advocate General of the Navy has determined that USS SHILOH (CG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 4, 1991.

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

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SHILOH (CG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval cruiser. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table five of § 706.2 is amended by adding the following vessel to the end of the table:

§ 706.2 [Amended]

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex 1, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex 1, sec. 3(a)	Percentage horizontal separation attained
* * * * *		*		*	
USS Shiloh	CG 67		X	X	38

Dated: September 4, 1991.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy Judge Advocate General.

[FR Doc. 91-22416 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3997-2]

Arkansas; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arkansas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Arkansas' application and has made a decision, subject to public review and comment, that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arkansas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Arkansas' application for program revision is available for public review and comment.

DATES: This final authorization for the State of Arkansas shall be effective on November 18, 1991, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Arkansas' program revision application must be received by the close of business October 18, 1991.

ADDRESSES: Copies of the Arkansas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209-8913, phone (501) 562-7444, U.S. EPA, Region 6, Library, 12th Floor, First

Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–6444; and U.S. EPA, Headquarters, Library, PM 211A, 401 M Street SW., Washington, DC 20460. Written comments, referring to Docket Number AR–91–1, should be sent to the Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–6760.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655–6760.

SUPPLEMENTARY INFORMATION:

A. Background

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

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, and 124 and 270.

B. Arkansas

Arkansas initially received final authorization on January 25, 1985, (See 50 FR 1513) to implement its base hazardous waste management program. Arkansas received authorization for revisions to its program on August 23, 1985 and May 29, 1990 (See 55 FR 11192). On March 15, 1989, Arkansas submitted a complete program revision application for additional program approvals. Today, Arkansas is seeking approval of its program revision in accordance with § 271.21(b)(3).

EPA has reviewed the State of Arkansas' application, and has made an immediate final decision that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorizations. Consequently, EPA intends to grant final authorization for the additional program modifications to Arkansas. The public may submit written comments on EPA's final decision up until October 18, 1991. Copies of Arkansas' application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

Approval of Arkansas' program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

The Arkansas program revision application includes States regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 260 through 266, 268, 270, 124 and 144 that were published in the **Federal Register** (FR) through April 22, 1988. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Arkansas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided for in a future statue or regulation.

Federal citation	State analog
1. Definition of Solid Waste; Corrections, as amended, April 11, 1985 (50 FR 14216) and August 20, 1985 (50 FR 33541).	Arkansas Hazardous Waste Management Code (AHWMC) section 3a, as amended November 17, 1989, effective December 21, 1989.
2. Standards for Hazardous Waste Storage and Treatment Tank Systems; Correction (non-HSWA provisions), as amended, August 15, 1986 (51 FR 29430).	AHWMC section 3a(1), (2), (3), (5), (6) & (9), as amended November 17, 1989, effective December 21, 1989.
3. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 (52 FR 25942).	AHWMC section 3a(5) & (9), as amended November 17, 1989, effective December 21, 1989.
4. Identification and Listing of Hazardous Waste, July 10, 1987 (52 FR 26012)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
5. Amendments to Part B Information Requirements for Land Disposal Facilities, as amended, September 9, 1987 (52 FR 33936).	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
6. Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, November 18, 1987 (52 FR 44314).	AHWMC section 3a(5) & (6), as amended November 17, 1989, effective December 21, 1989.
7. Hazardous Waste Miscellaneous Units, December 10, 1987 (52 FR 46946)	Arkansas Code of 1987, Annotated (Ark. Code Ann.) section 8-7-218 & 8-7-219(2), as amended February 24, 1989. AHWMC section 3a(1), (5), (6), (9) & section 12b(4), as amended November 17, 1989, effective December 21, 1989. Arkansas Underground Injection Control Code, section 3(a), effective May 4, 1989.
8. Financial Responsibility; Settlement Agreement, as amended, March 10, 1988 (53 FR 7740).	Ark. Code Ann. section 8-7-218 & 8-7-219(2), as amended February 24, 1989. AHWMC section 3a(5), (6), (9) & section 12b(4), as amended November 17, effective December 21, 1989.
9. Technical Correction; Identification and Listing of Hazardous Waste, April 22, 1988 (53 FR 13382).	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
10. Direct Action Against Insurers—as required by HSWA section 3004(t), November 8, 1984.	Ark. Code Ann. section 8-7-218(b)(2) & (c), as amended February 24, 1989.
11. Dioxin Waste Listing and Management Standards, January 14, 1985 (50 FR 1978).	AHWMC section 3a(2), (5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
12. Fuel Labeling—as required by HSWA section 3004(r)(1), February 7, 1985	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
13. Paint Filter Test, April 30, 1985 (50 FR 18370)	AHWMC section 3a(1), (5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.

Federal citation	State analog
14. Prohibition of Liquids in Landfills—as required by HSWA section 3004(c), May 8, 1985.	Ark. Code Ann. section 8-7-209(a) (1), (5), (b) & section 8-7-218, as amended February 24, 1989. AHWMC section 3a(5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
15. Expansions During Interim Status—Waste Piles—as required by HSWA section 3015 (a), May 8, 1985.	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
16. Expansions During Interim Status—Landfills and Surface Impoundments—as required by HSWA section 3015 (b), May 8, 1985.	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
17. Sharing of Information With the Agency for Toxic Substances and Disease Registry—as required by HSWA section 3019(b), July 15, 1985.	Ark. Code Ann. section 8-7-209(a)(2) & (10), as amended February 24, 1989.
18A. Small Quantity Generators	AHWMC section 3a, 12a & 16b, as amended November 17, 1989, effective December 21, 1989.
18C. Household Waste	AHWMC section 3a, as amended November 17, 1989, effective December 21, 1989.
18D. Waste Minimization	AHWMC section 3a(3), (5), (6), (9), 12a(7) & (8) & 16b, c & d, as amended November 17, 1989, effective December 21, 1989. Ark. Code Ann. section 8-7-218(b) & (c), as amended February 24, 1989.
18E. Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves.	Ark. Code Ann. section 8-7-209(a) (1), (3), (5), (6), (11), (b) & section 8-7-218, as amended February 24, 1989. AHWMC 3a(5), (6) & 13a(5), as amended November 17, 1989, effective December 21, 1989.
18F. Liquids in Landfills	Ark. Code Ann. section 8-7-209(a) (1), (5), (b) & section 8-7-218, as amended February 24, 1989. AHWMC section 3a(1), (5), (6) & (9) section 13a(5), as amended November 17, 1989, effective December 21, 1989.
18G. Dust Suppression	AHWMC section 3a(7), as amended November 17, 1989, effective December 21, 1989.
18H. Double Liners	Ark. Code Ann. section 8-7-218, as amended February 24, 1985. AHWMC section 3a(5) & (6), as amended November 17, 1989, effective December 21, 1989.
18I. Ground-Water Monitoring	Ark. Code Ann. section 8-7-211 & section 8-7-218(b)(2), as amended February 24, 1989. AHWMC section 3a(5), 12c(3) & 17a, as amended November 17, 1989, effective December 21, 1989.
18J. Cement Kilns	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
18K. Fuel Labeling	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
18L. Corrective Action	Ark. Code Ann. section 8-7-218(b)(2), 8-7-218(c), 8-7-508(a)(1), 8-7-209(a)(6) & (8), 8-7-205(4), 8-7-218(b), 8-7-219, 8-7-502, 8-7-503(12) & 8-7-506, as amended February 24, 1989. AHWMC section 3a(5), (9) & section 12b(4), as amended November 17, 1989, effective December 21, 1989.
18M. Pre-construction Ban	Ark. Code Ann. section 8-7-211, as amended February 24, 1989. AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
18N. Permit Life	Ark. Code Ann. section 8-7-220, as amended February 24, 1989. AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
18O. Omnibus Provision	AHWMC section 3a(9) & 14, as amended November 17, 1989, effective December 21, 1989.
18P. Interim Status	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
18Q. Research and Development Permits	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
18R. Hazardous Waste Exports	AHWMC section 3a(2), (3), (4) & (16), as amended November 17, 1989, effective December 21, 1989.
18S. Exposure Information	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
19. Listing of TDI, TDA, DNT, October 23, 1985 (50 FR 42936)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
20. Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces, November 29, 1985 (50 FR 49164), as amended April 13, 1987 (52 FR 11819).	Ark. Code Ann. section 8-7-203(6) & (7), as amended February 24, 1989. AHWMC section 2a(5), 3a(2), (5), (6) & (7), as amended November 17, 1989, effective December 21, 1989.
21. Listing of Spent Solvents, December 31, 1985 (50 FR 53315), as amended January 21, 1986 (51 FR 2702).	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
22. Listing of EDB Waste, February 13, 1986 (51 FR 5327)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
23. Listing of Four Spent Solvents, February 25, 1986 (51 FR 6537)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
24. Generators of 100 to 1000 kg Hazardous Waste, March 24, 1986 (51 FR 10146).	AHWMC section 3a, 12a & 16b, as amended November 17, 1989, effective December 21, 1989.
25. Codification Rule, Technical Correction (Paint Filter Test), May 28, 1986 (51 FR 19176).	AHWMC section 3a(1), (5), (6), (9) & 13a(5), as amended November 17, 1989, effective December 21, 1989.
26. Standards for Hazardous Waste Storage and Treatment Tank Systems (HSWA provisions), July 14, 1986 (51 FR 25422), as amended August 15, 1986 (51 FR 29430).	AHWMC section 3a(1), (2), (3), (5), (6), & (9) as amended November 17, 1989, effective December 21, 1989.
27. Biennial Report; Correction, August 8, 1986 (51 FR 28556)	AHWMC section 3a(3), (5), (6), (9), 16b, c, d & d(1), 12a(7) & (8), as amended November 17, 1989, effective December 21, 1989.
28. Exports of Hazardous Waste, August 8, 1986 (51 FR 28664)	AHWMC section 3a(2), (3), (4) & section 16, as amended November 17, 1989, effective December 21, 1989.
29. Standards for Generators—Waste Minimization Certifications, October 1, 1986 (51 FR 35190).	AHWMC section 3a, 3a(2), (3), (5), (6), (9), 12a, 12a(7) & (8), 16, 16b-d, as amended November 17, 1989, effective December 21, 1989. Ark. Code Ann. section 8-7-218(b) & (c), as amended February 24, 1989.
30. Listing of EBDC, October 24, 1986 (51 FR 37725)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.

Federal citation	State analog
31. Land Disposal Restrictions, November 7, 1986 (51 FR 40572), as amended June 4, 1987 (52 FR 21010).	Ark. Code Ann. section 8-7-205(3), 8-7-209(a)(1), (3), (5), (6), (11) & (b), 8-7-215, 8-7-216, 8-7-218, 8-7-303 & section 8-7-308(4), as amended February 24, 1989. AHWMC section 3a(5), (6) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
32. California List Waste Restrictions, July 8, 1987 (52 FR 25760), as amended October 27, 1987 (52 FR 41295).	Ark. Code Ann. section 8-7-205(3), 8-7-209(a)(1), (3), (5), (6), (11) & (b), 8-7-215, 8-7-216 & 8-7-218, as amended February 24, 1989. AHWMC section 3a(3), (5), (6), (8), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
33. Exception Reporting for Small Quantity Generators of Hazardous Waste, September 23, 1987 (52 FR 35894).	AHWMC section 3a(3) & 16c(2), as amended November 17, 1989, effective December 21, 1989.
34A. Permit Application Requirements Regarding Corrective Action	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34B. Corrective Action Beyond Facility Boundary	Ark. Code Ann. section 8-7-218(b)(2), (c) & 8-7-209(a)(8), as amended February 24, 1989. AHWMC section 3a(5), as amended November 17, 1989, effective December 21, 1989.
34C. Corrective Action for Injection Wells	AHWMC section 3a(5), (6) & (9), as amended November 17, 1989, effective December 21, 1989. Arkansas Underground Injection Control Code section 3(A), effective May 4, 1989.
34D. Permit Modification	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34E. Permit as a Shield Provision	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34F. Permit Conditions to Protect Human Health and the Environment	AHWMC section 3a(9) & 14, as amended November 17, 1989, effective December 21, 1989.
34G. Post-Closure Permits	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
35. State Availability of Information—as required by HSWA section 3006(f), November 8, 1984.	Ark. Code Ann. section 25-19-103(1), 25-19-105, 25-19-107, 8-4-222, 8-4-223, 5-4-226, 8-4-227, 8-7-204(b) & (g) ((Act 435 of 1991, enacted & effective March 11, 1991)), 8-7-225(d) & 4-75-601(4), effective February 24, 1989. AHWMC section 6, as amended November 17, 1989, effective December 21, 1989. Memorandum of Agreement, between the United States Environmental Protection Agency, Region VI and the Arkansas Department of Pollution Control & Ecology, effective September 6, 1991.

The Arkansas program revision application includes State regulatory changes that are more stringent than the Federal RCRA regulations. AHWMC section 13a(5) does not allow free liquids to be placed in landfills unless before disposal they have been treated or stabilized into cement-like material. Thereby, making the State regulations more stringent than the Federal regulations.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C. See 40 CFR 271.1(1). As a result, State provisions which are "broader in scope" than the Federal program are not covered for purposes of EPA enforcement in part 272. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

The State's statutory definition of a hazardous waste as found in Ark. Code Ann. section 8-7-206(6), and AHWMC 3a(2) and 2a(5) includes polychlorinated biphenyls (PCB's) in addition to the EPA listed chemical compounds found in 40 CFR part 261. Thus, Arkansas' hazardous waste universe is broader in scope than that controlled under RCRA. This additional group of chemical compounds is not part of the authorized program, but is enforced by the State.

Sections 12a and 16 of the AHWMC require all generators in Arkansas, to include small quantity generators and conditionally-exempt generators to comply with all Federal requirements as indicated in 40 CFR part 262 regarding the storage, shipment, and manifesting of hazardous wastes (Uniform Hazardous Waste Manifest, EPA Form 8700-22A), and further requires that hazardous waste may be shipped only to authorize treatment, storage and disposal facilities within or outside the State for disposal. Arkansas does not recognize any quantity exclusion. The generator must certify upon signing each manifest that he or she is making a good faith effort to minimize the generation of hazardous waste and select the best available and affordable treatment, storage or disposal alternative. State provisions are thus lacking any quantity exclusion and are broader in scope than Federal requirements.

Federal regulations that generators of between 100 and 1000 kg/mo of hazardous waste, file an exception report in those instances where the generator does not receive confirmation of delivery of his hazardous waste to the designated facility (See 40 CFR 262.42 and 262.44). The State has not adopted the exceptions to recordkeeping and reporting requirements for 100-1000 kg/mo generators as found in 40 CFR 262.44. Therefore these generators must comply with the same reporting requirements as required of generators of over 1000 kg/mo and thereby making the States requirements broader in scope (See AHWMC section 3a(3) and 16c(2). This requirement is not part of the authorized program.

C. Effect of HSWA on Arkansas' Authorization

Prior to the Hazardous and Solid Waste Amendments of RCRA, a State with final authorization administered its hazardous waste program instead of, or in lieu of, the Federal program. Except for certain enforcement provisions, EPA no longer directly applied the Federal requirements in the authorized State and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements usually did not take effect in an authorized State until the State adopted the requirements as a State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6929(g), new HSWA requirements and prohibitions take effect in authorized States at the same time they take effect in non-authorized States. EPA carries out those requirements and prohibitions

directly in authorized and non-authorized States, including the issuance of full or partial HSWA permits, EPA grants the State authorization to do so. States must still, at one point, adopt HSWA-related provisions as a State law to retain final authorization. In the interim, the HSWA provisions apply in authorized States.

As a result of the HSWA, there is a dual State/Federal regulatory program in Arkansas. To the extent HSWA does not affect the authorized State program, the State program operates in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA administers and enforces those HSWA requirements in Arkansas until the State is authorized for them.

Once EPA authorizes Arkansas to carry out a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision or prohibition. Until that time, the State may assist EPA's implementation of the HSWA under a cooperative agreement.

Today's rulemaking includes authorization of Arkansas' program for most of the requirements commonly known as HSWA Cluster I and some of HSWA Cluster II requirements. It includes some HSWA corrective action rules and some land disposal prohibitions. Any effective State requirement that is more stringent or broader in scope than a Federal HSWA provision will continue to remain in effect; thus, regulated handlers must comply with any more stringent State requirements. Conversely, regulated handlers must also comply with any HSWA requirements retained by EPA; i.e., those HSWA provisions or prohibitions not being authorized in this revision, which may be more stringent than the analogous requirements of the Arkansas program. As a consequence, regulated handlers facing an apparent conflict between State and Federal land disposal prohibitions must always comply with the more stringent of the two requirements.

Among the HSWA provisions being retained or not being authorized at this time are the provisions regarding burning of waste fuel and used oil fuel in boilers and industrial furnaces (56 FR 7134), or the following land disposal restrictions regarding the amendments to the first third (54 FR 18836), (54 FR 36967), second third (54 FR 26594) or third third scheduled wastes (55 FR 22520), or the toxicity characteristics revisions (55 FR 11798, 55 FR 26986, 55 FR 40834).

Upon authorization of the HSWA provisions listed in the chart above, the State of Arkansas will assume primary authority for permitting those specific provisions in lieu of EPA. The State will also assume primary responsibility for enforcing and administering the HSWA provisions of previously issued Federal permits for which it is currently being authorized under this immediate final rule. Additional public notice of the State's assumption of HSWA responsibility for said provisions in previously issued permits has been given by the State in its adoption of a final rule indicating the State's intention regarding those provisions.

D. Decision

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

Arkansas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the nonauthorized HSWA provisions. Arkansas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Arkansas's program and for incorporation by reference of those provisions of Arkansas's statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. EPA is reserving amending part 272, subpart E, until a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Arkansas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 6, 1991.

Robert E. Layton Jr.,

Regional Administrator.

[FR Doc. 91-22317 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-M

ACTION

45 CFR Part 1228

Clearinghouse Requirements and Procedures

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: 45 CFR part 1228 implemented Office of Management and Budget Circular A-95 on clearinghouse requirements and procedures which was rescinded and replaced by Executive Order 12372, "Intergovernmental Review of Federal Programs." Thus, part 1228 is now obsolete and should be removed.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Lowell B. Genebach, Jr., Director, Budget and Planning Division, Tel. (202) 606-5137.

SUPPLEMENTARY INFORMATION:

List of Subjects in 45 CFR Part 1228

Intergovernmental relations.

PART 1228—CLEARINGHOUSE REQUIREMENTS AND PROCEDURES [REMOVED]

Pursuant to the Director's general rule-making authority, 42 U.S.C. 5042 Sec. 402, 45 CFR part 1228 is removed.

Signed in Washington, DC, September 10, 1991.

Jane A. Kenny,

Director of ACTION.

[FR Doc. 91-22372 Filed 9-17-91; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 221

[Docket No. R-125]

RIN 2133-AA79

Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Correction

AGENCY: Maritime Administration, DOT.

ACTION: Correction of interim final rule.

SUMMARY: The Maritime Administration ("MARAD") is issuing this notice to correct a notice of correction in an interim final rule which appeared in the Federal Register on September 12, 1991 (56 FR 46387).

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr., Deputy Chief Counsel, Maritime Administration, Washington, DC 20590, tel. (202) 366-5712.

SUPPLEMENTARY INFORMATION: The September 12, 1991 notice, correcting the interim final rule of July 3, 1991 (56 FR 30654), contains, in § 221.11(c), an incorrect reference to "paragraphs (a)(1)-(3)." The correct reference is "paragraphs (c)(1)-(3)".

PART 221—[CORRECTED]

Accordingly, 46 CFR part 221 is corrected as follows:

1. The authority citation for part 221 continues to read as follows:

Authority: Secs. 2, 9, 37, 41 and 43, Shipping Act, 1916, as amended; Secs. 204(b) and 705, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 802, 803, 808, 835, 839, 841a, 1114(b), 1195); 46 U.S.C. chs. 301 and 313; 49 U.S.C. 336; 49 CFR 1.66.

221.11 [Corrected]

2. Section 221.11 is amended by correcting, in paragraph (c), in the sentence following subparagraph (4), the reference therein to read "paragraphs (c)(1)-(3)".

Joel C. Richard,

Assistant Secretary, Maritime Administration.

[FR Doc. 91-22406 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-173; RM-7558]

Radio Broadcasting Services; Jackson, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Teton Broadcasting Limited Partnership, substitutes Channel 237C in lieu of Channel 239C at Jackson, Wyoming, and modifies its authorization accordingly. *See* 56 FR 29451, June 2, 1991. Channel 237C can be allotted to Jackson at petitioner's present construction permit site in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 237C at Jackson are North Latitude 43-27-40 and West Longitude 110-45-09. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and order, MM Docket No. 91-173, adopted August 30, 1991, and released September 12, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by deleting Channel 239C and adding Channel 237C at Jackson.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-22452 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket Nos. HM-181, HM-181A, HM-181B, HM-181C, HM-181D, HM-204 and HM 142A; Amdt. No. 171-111]

RIN 2137-AA01, 2137-AB87, 2137-AB88, 2137-AA10, 2137-AB90, and 2137-AB56

Performance-Oriented Packaging Standards; Revisions to Transitional Provisions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; partial response to petitions for reconsideration and revisions.

SUMMARY: This amendment makes revisions to a final rule published in the Federal Register under Docket Nos. HM-181, HM-181A, HM-181B, HM-181C, HM-181D and HM-204 (55 FR 52402, December 21, 1990). That final rule comprehensively revised the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) with respect to hazard communication, classification and packaging requirements. The changes were based on the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and RSPA's own initiative. The revisions contained in this document are in response to petitions for reconsideration addressing the transitional provisions contained in the final rule. This amendment also extends the effective date for certain quantities of infectious substances and incorporates all rulemaking actions issued under Docket HM-142A (56 FR 197, January 3, 1991, and 56 FR 7312, February 22, 1991) into Docket HM-181. RSPA will respond to other petitions for reconsideration in a forthcoming corrections document. The revision of the transition period will allow adequate time for persons subject to the HMR to evaluate domestic products for changes in classification, descriptions on shipping papers, product marking, labeling and vehicle placarding, to conduct package testing, and to provide sufficient time for the retraining of shipper, carrier, enforcement, and emergency response personnel in the new requirements.

DATES: *Effective:* October 1, 1991.

Applicability: The provisions of § 172.101(l)(1)(ii), which allow up to one year after a change in the Hazardous Materials Table (HMT) to use up stocks of preprinted shipping papers and to

ship packages that were marked prior to the change, do not apply to § 171.14.

FOR FURTHER INFORMATION CONTACT: Delmer Billings, telephone (202) 366-4488, Office of Hazardous Materials Standards, or Charles Hochman, telephone (202) 366-4545, Office of Hazardous Materials Technology, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: On December 21, 1990, the Research and Special Programs Administration (RSPA) published a final rule under Docket HM-181 which comprehensively revised the Hazardous Materials Regulations (HMR; 49 CFR, parts 171 to 180) with respect to hazard communication, classification, and packaging requirements based on the Sixth Edition of the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). RSPA received over 250 petitions for reconsideration, some of which are addressed herein. RSPA's response to other petitions for reconsideration will appear in one or more additional corrections to the December 21, 1990 final rule, which are expected to be issued very soon.

Because the final rule was so extensive, RSPA established several transition periods, extending up to five years, until October 1, 1996, for implementation of the new requirements. Based on petitions for reconsideration, RSPA is revising these transitional periods in this rulemaking to provide persons subject to the HMR adequate time to evaluate domestic products for changes in classification, descriptions on shipping papers, product marking, labeling and vehicle placarding, to conduct package testing, and to provide sufficient time for the retraining of shipper, carrier, enforcement, and emergency response personnel in the new requirements.

Discussion of Petitions

RSPA received twenty-five petitions recommending revisions to the transitional provisions contained in § 171.14 for converting to the new classification and hazard communication system. Most of the petitioners recommended either extension or elimination of the two-year hazard communication transition period provided in § 171.14(b)(3). Seven petitioners urged RSPA to extend the period for classifying, describing, marking, labeling, and placarding materials poisonous by inhalation to October 1, 1992, or October 1, 1993.

Hazard Communication and Classification Transition Period

Provisions in § 171.14(b)(3) requiring conversion to the new hazard communication system for most materials by October 1, 1993, troubled a number of petitioners. Four petitioners wanted to eliminate the two-year transition period for compliance with new hazard communication and classification requirements. These petitioners included the Association of American Railroads (AAR), who, along with several rail carriers, asserted that the two-year transition period specified in § 171.14(b)(3) is too long. AAR stated that two years of a mixed DOT/UN hazard communication system would confuse transportation employees, emergency responders and others, and could impair transportation system safety. AAR recommended a six-month effective date (until June 21, 1991) to implement classification and hazard communication regulations. However, one rail carrier supported the two-year transition for marking and labeling of non-bulk packages.

Nine petitioners, including the American Trucking Association (ATA), asked RSPA to revise § 171.14(b)(3) to allow more time for conversion to the new hazard communication system given the great number of hazardous products involved and high short-term conversion costs. Several petitioners said it will be "very difficult" to fully coordinate the complete changeover to the new system. They urged RSPA to require consistency in the application of a hazard communication system over the transition period.

Transition Period for Materials Poisonous by Inhalation

Manufacturers of ethylene oxide and ethylene oxide mixtures, among other petitioners, urged RSPA to extend the effective date of this rulemaking from October 1, 1991, to at least October 1, 1992. They said the provisions in § 171.14(a)(3), requiring materials poisonous by inhalation to comply with the new hazard communication and classification criteria by October 1, 1991, will affect thousands of reusable drums in dedicated service. One petitioner explained that the turnaround time for drums is often two to three months and often up to 12 months for cylinders of ethylene oxide mixtures. The petitioners stated that "it is unreasonable to expect customers at well over 5,000 locations to make changes to the markings on returnable packages in the timeframe allowed." The Ethylene Oxide Industry (EOI) Association added that shippers need more time to comply with new hazard communication requirements because new data may affect the classification of this material. EOI stated "workers also need to be trained in the new requirements and shippers need to locate carriers with sufficient liability insurance to carry (materials poisonous by inhalation)."

Packagings Prepared/Filled Prior to October 1, 1991

Other petitioners averred that it will take at least two years to review data for the reclassification of product inventory, to redesign and produce new packaging, and to re-mark existing packagings. The Compressed Gas Association recommended an exception to § 171.14(a)(3), stating that a container which has been charged and shipped prior to October 1, 1991, may be returned to the supplier bearing its original markings and labels provided it is shipped under the description, "Residue last contained."

Transition Period for New Explosives

For new explosives, one petitioner recommended that existing DOT placards be used exclusively until October 1, 1993, on all vehicles transporting explosives. The petitioner stated" to require otherwise would raise serious safety considerations given, for example, that DOT's 1990 edition of the Emergency Response Guidebook does not show UN numbers for explosives nor UN proper shipping names." Another petitioner claimed that RSPA's decision not to permit mixing of DOT and UN hazard communication systems "will result in a significant burden to the explosives industry."

Transition Period for Conversion to New Placarding System

Several motor carriers stated there is no demonstrated need to change the DOT placarding system by October 1, 1993, adding that "the expense (of complying with new placarding requirements by October 1, 1993) is not justified by the safety benefits gained." They said continued use of existing DOT placards should cause no confusion to emergency responders or enforcement personnel over a five-year transition period. Carriers recommended delaying the placarding provisions in § 171.14(b)(3) until a rulemaking on improvements to the placarding system (mandated by the Hazardous Materials Transportation Uniform Safety Act of 1990) is completed. They stated "otherwise, carriers would be forced to undergo the cost of making two regulatory adjustments." One carrier asked RSPA to revise § 171.14(b)(3) to

permit trailers now equipped with permanently affixed placards to remain in use without the hazard class numbers until November 30, 1998.

RSPA Response to Petitions

RSPA is sympathetic to the concerns of AAR and other petitioners that a mixed DOT/UN hazard communication system will create confusion if the two-year transition period for hazard communication requirements is not shortened. However, RSPA believes that a two-year transition period for most hazard communication and classification requirements is necessary to allow sufficient time for persons to familiarize themselves with the new requirements and, for example, make the necessary revisions to shipping paper descriptions in computer databases, remark and relabel packages, and train employees.

On the other hand, RSPA does not believe that the two-year transition period for hazard communication and classification requirements should be extended. For most provisions of the final rule, RSPA has determined that a two-year transition period (until October 1, 1993) is sufficient for converting to the new regulatory scheme. However, RSPA realizes that some transition period adjustments are needed to accommodate special circumstances such as those associated with the transport of materials poisonous by inhalation, conversion to the new placarding system, and transport of certain quantities of infectious substances. Consequently, RSPA is extending the effective dates of the new requirements for descriptions on shipping papers (except as addressed in the following paragraph), product marking, labeling and vehicle placarding from October 1, 1991, to October 1, 1992, for all materials meeting the poisonous by inhalation criteria. The transition period for packaging requirements for these materials remains unchanged and is effective on October 1, 1993. The effective date for conversion to the new placarding system for the transport of all materials, except materials poisonous by inhalation, has been extended from October 1, 1993, to October 1, 1994, based on the merits of petitions. RSPA is also extending the "50 ml exception" for cultures of infectious substances (etiologic agents) for one year, until October 1, 1992.

RSPA is still requiring gases and liquids poisonous by inhalation to be classified as of October 1, 1991. In addition, by that date, the words "Poison-Inhalation Hazard" or "Inhalation Hazard", as appropriate, must be entered on shipping papers, as required in § 172.203(m), for gases meeting the definition for poisonous by inhalation in § 173.115(c), which includes materials assigned Special Provision 13 in Column 7 of the § 172.101 Table. Liquids poisonous by inhalation are already subject to the hazard communication requirements for materials poisonous by inhalation.

One petitioner asked RSPA to clarify that, for anhydrous ammonia, Special Provision 13 in § 172.102 requiring the words "Inhalation Hazard" on shipping papers and package markings will not be effective until October 1, 1993. This petitioner is mistaken. Although anhydrous ammonia is classified in the § 172.101 Table as a Division 2.2 non-flammable gas domestically, it meets criteria in § 173.115(c) for Division 2.3 gases poisonous by inhalation and is subject to the same transitional provisions. Therefore, in this final rule it is made clear that for anhydrous ammonia, the requirement to enter the words "Inhalation Hazard" on shipping papers is effective October 1, 1991. The words "Inhalation Hazard" must be marked on packages containing anhydrous ammonia by October 1, 1992.

Infectious Substances

The definition and packaging provisions for infectious substances (etiologic agents) were issued in a final rule under Docket HM-142A (56 FR 197, January 3, 1991), entitled "Etiologic Agents". The final rule under Docket HM-181 expanded the provisions issued under Docket HM-142A for etiologic agents, and authorized the term "infectious substances" as synonymous with the term "etiologic agent". Although the final rule under Docket HM-142A was published subsequent to the final rule under HM-181, the intent of Docket HM-142A was to provide interim provisions for the transportation of infectious substances (etiologic agents) until the October 1, 1991, effective date under Docket HM-181. In the Docket HM-142A final rule, RSPA recommended that shippers implement the Docket HM-181 provisions as soon as practicable rather than the interim provisions contained in Docket HM-142A.

RSPA received a petition for reconsideration to Docket HM-142A that raised several issues concerning the potential impact of the final rule on the waste management industry. RSPA delayed the effective date of the final rule to September 30, 1991 (56 FR 7312), to provide more time to evaluate the petition. Because RSPA intended that the provisions of Docket HM-181 supersede those in Docket HM-142A, RSPA is incorporating Docket HM-142A into Docket HM-181, and is extending the effective date for cultures of infectious substances (etiologic agents) of 50 ml or less total quantity per package as part of this rulemaking action. Therefore, for cultures of infectious substances (etiologic agents) of 50 ml or less total quantity in one package, hazard communication (shipping papers, marking, and labeling) and classification requirements are extended from October 1, 1991, until October 1, 1992. For infectious substances not meeting this exception, the effective date remains October 1, 1991, for hazard communication (shipping papers, marking, and labeling) and classification requirements. Further response to the petition for reconsideration of the final rule issued under Docket HM-142A will appear in a forthcoming corrections document under Docket HM-181.

Summary

The transitional provisions in § 171.14 are reorganized for clarity and revised as follows:

Effective October 1, 1991

New explosives must be classified, described on shipping papers, marked on packages, and labeled according to the new system. Classification criteria in § 173.115(c) are effective for gases which are poisonous by inhalation. For these gases, the words "Poison-Inhalation Hazard" or "Inhalation Hazard", as appropriate, must be entered on shipping papers, as required by either § 172.203(m) or Special Provision 13 to the § 172.101 Table. Except for cultures of infectious substances (etiologic agents) of 50 ml or less total quantity in one package (the "50 ml exception"), revised hazard communication (shipping papers, marking, and labeling) and classification requirements are effective for infectious substances. Infectious substances (etiologic agents) currently excepted under the "50 ml exception" in § 173.386(d)(3) are granted a one-year extension of the effective date, until October 1, 1992.

Effective October 1, 1992

Revised hazard communication requirements (i.e., descriptions on shipping papers, package marking, labeling, and vehicle placarding) are effective for all materials meeting the criteria for poisonous by inhalation, including those assigned Special Provision 13 in column 7 of the § 172.101 table. Also, revised hazard communication (shipping papers, marking, and labeling) and classification requirements are effective for cultures of

infectious substances (etiologic agents) of 50 ml or less total quantity in one package.

Effective October 1, 1993

Except for placarding, compliance with new classification and hazard communication requirements is required for all other hazard materials. Packaging requirements are effective for all materials meeting the criteria of poisonous by inhalation. Modal requirements are effective, and hazardous materials must be loaded and segregated as required in §§ 174.81 and 177.848 for transportation by rail car and motor vehicle, respectively.

Effective October 1, 1994

Non-bulk packagings are required to be manufactured in compliance with UN performance standards. Also, conversion to the new placarding system is required for the transport of all hazardous materials except materials poisonous by inhalation (for which placarding requirements are effective October 1, 1992).

Effective October 1, 1996

DOT specification packagings rendered obsolete by the December 21, 1990, final rule may no longer be used.

Other transitional provisions are established in § 171.14(c). Paragraph (c)(1) allows packages filled with hazardous materials before October 1, 1991, to (1) retain original markings and labeling; and (2) not comply with the UN packaging standards if these packages are transported prior to October 1, 2001. However, as of October 1, 1992, the "Inhalation Hazard" marking specified in § 172.313(a) must be applied to packages filled with materials meeting the criteria of poisonous by inhalation. Until October 1, 1994, carriers may use either new "UN-based" or old placards, as indicated in the placard substitution table provided in paragraph (c)(2). RSPA sets forth "mix and match" guidelines in § 171.14(c)(3) for operating within a dual system during the various transition periods.

Applicability

The provision in § 172.101(l)(1)(ii), which allows stocks of preprinted shipping papers and package markings to continue in use until depleted or up to one year from the effective date, whichever is less, does not apply as an additional one-year extension of the effective dates contained in this rule.

Administrative Notices

A. Executive Order 12291

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. However, it is a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034). This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) This final rule does not impose additional requirements and has the net result of reducing costs imposed under the final rule published in the **Federal Register** on December 21, 1990, without reducing safety (55 FR 52402). The original regulatory evaluation of the final rule was not modified because the changes made under this rule will result in minimal economic impact on industry.

B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effect of the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

C. Impact on Small Entities

Based on limited information concerning size and nature of entities likely to be affected by this rule, I certify this rule will not have a significant economic impact on a substantial number of entities under the criteria of the Regulatory Flexibility Act. A regulatory flexibility analysis is available for review in the docket.

D. Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the December 21, 1990 final rule, which was approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35.

E. Regulatory Information Number (RIN)

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171, as amended in the final rule published December 21, 1990 (55 FR 52402), is further amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 is revised to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, 1818; 49 CFR Part 1.

2. Section 171.14, as revised on page 52473, is revised to read as follows:

§ 171.14 Transitional provisions for implementing requirements based on the UN Recommendations.

(a) *Purpose and scope.* A rule published in the **Federal Register** on December 21, 1990, effective October 1, 1991, resulted in a comprehensive revision of this subchapter based on the UN Recommendations. The purpose of the provisions of this section is to provide an orderly transition to the new requirements, so as to minimize any burdens associated with them. During a transition period as provided herein, persons may elect to comply with either the applicable old requirements of this subchapter in effect on September 30, 1991, or the new requirements of this subchapter appearing in the December 21, 1990 rule, and the rule published in the **Federal Register** on September 18, 1991, effective October 1, 1991.

(b) *Transition dates:* The following transition dates apply only to the new requirements in the December 21, 1990 rule:

(1) *October 1, 1991.* On October 1, 1991, the following requirements are effective:

(i) For new explosives, the hazard classification procedures as set forth in subpart C of part 173 (for explosives) of this subchapter and, except for vehicle placarding, hazard communication requirements (i.e., shipping papers, emergency response information, package markings, and labeling) as set forth in part 172 of this subchapter.

(ii) The classification of materials poisonous by inhalation meeting the criteria of Division 2.3 (see § 173.115(c) of this subchapter), which includes materials assigned Special Provision 13 in column 7 of the § 172.101 table; Division 6.1 (see § 173.133(a) of this subchapter); or are otherwise identified as poisonous by inhalation through a

special provision in column 7 of the § 172.101 table. For such materials, the words "Poison-Inhalation Hazard" or "Inhalation Hazard" as required by § 172.203(m) or by Special Provision 13, as appropriate, shall be entered on shipping papers in association with the basic description.

(iii) For infectious substances, except for cultures of infectious substances (etiologic agents) of 50 ml (1.666 fluid ounces) or less total quantity in one package, the hazard classification procedures as set forth in § 173.134 of this subchapter and, except for vehicle placarding, hazard communication requirements (i.e., shipping papers, emergency response information, package markings, and labeling) as set forth in part 172 of this subchapter. (For cultures of infectious substances (etiologic agents) of 50 ml or less total quantity in one package, see paragraph (b)(2)(ii) of this section.)

(2) *October 1, 1992.* On October 1, 1992, the following requirements are effective:

(i) Hazard communication requirements of part 172 of this subchapter (including placarding requirements of subpart F of part 172 of this subchapter) for all materials poisonous by inhalation, which includes materials meeting the criteria in §§ 173.115(c) and 173.133(a) of this subchapter or materials otherwise identified as poisonous by inhalation through a special provision (or assigned Special Provision 13) in column 7 of the § 172.101 table.

(ii) For cultures of infectious substances (etiologic agents) of 50 ml (1.666 fluid ounces) or less total quantity in one package, the hazard classification procedures as set forth in § 173.134 of this subchapter and, except for vehicle placarding, hazard communication requirements (i.e., shipping papers, emergency response information, package markings, and labeling) as set forth in part 172 of this subchapter.

(3) *October 1, 1993.* On October 1, 1993, the following requirements are effective:

(i) Classification and hazard communication requirements in part 172 of this subchapter, other than subpart F (placarding), and part 173 of this subchapter, that were not previously in effect;

(ii) Packaging requirements for all materials meeting the criteria for poisonous by inhalation;

(iii) Modal segregation requirements in §§ 174.81 and 177.848 of this subchapter; and

(iv) All other requirements of the December 21, 1990, rule for which a lengthier transition period is not provided elsewhere in this section.

(4) *October 1, 1994.* On October 1, 1994, the following are effective:

(i) Placarding requirements in subpart F of part 172 of this subchapter that were not previously in effect; and

(ii) Package manufacturing and marking requirements under the provisions of subpart B of 173, subparts A, B, D, E, F, and G of part 178, and part 179 of this subchapter. (DOT specification packagings removed from part 178 of this subchapter by the December 21, 1990, rule may no longer be manufactured.).

(5) *October 1, 1996.* On October 1, 1996, requirements in parts 172 and 173 of this subchapter for maintenance and use of packagings that were not previously in effect are effective. (DOT specification packagings removed from part 178 of this subchapter by the December 21, 1990, rule and packaging authorizations removed from part 173 of this subchapter by the December 21, 1990, rule may no longer be used in place of new packaging requirements.)

(c) *Other transitional provisions*—(1) *Packages filled prior to October 1, 1991.* Notwithstanding the marking and labeling provisions of subparts D and E, respectively, of part 172, and the packaging provisions of part 173 and subpart B of Part 172 of this subchapter, a package may be offered for transportation and transported prior to October 1, 2001, if it—

(i) Conforms to the old requirements of this subchapter in effect on September 30, 1991;

(ii) Is filled with hazardous materials prior to October 1, 1991;

(iii) Is marked "Inhalation Hazard", if appropriate, in accordance with § 172.313 of this subchapter or Special Provision 13, as assigned in the § 172.101 table; and

(iv) Is not emptied and refilled on or after October 1, 1991.

(2) *Transitional placarding provisions.* Until October 1, 1994, placards which conform to specifications for placards in effect on September 30, 1991, may be used in place of the placards specified in subpart F of part 172 of this subchapter, in accordance with the following table:

PLACARD SUBSTITUTION TABLE

Hazard class or division No.	Current placard name	Old (Sept. 30, 1991) placard name
DIVISION 1.1	EXPLOSIVES 1.1.	EXPLOSIVES A.
DIVISION 1.2	EXPLOSIVES 1.2.	EXPLOSIVES A.
DIVISION 1.3	EXPLOSIVES 1.3.	EXPLOSIVES B.
DIVISION 1.4	EXPLOSIVES 1.4.	DANGEROUS.
DIVISION 1.5	EXPLOSIVES 1.5.	BLASTING AGENTS.
DIVISION 1.6	EXPLOSIVES 1.6.	DANGEROUS.
DIVISION 2.1	FLAMMABLE GAS.	FLAMMABLE GAS.
DIVISION 2.2	NONFLAMMABLE GAS.	NONFLAMMABLE GAS.
DIVISION 2.3	POISON GAS	POISON GAS.
CLASS 3	FLAMMABLE	FLAMMABLE.
COMBUSTIBLE LIQUID.	COMBUSTIBLE	COMBUSTIBLE.
DIVISION 4.1	FLAMMABLE SOLID.	FLAMMABLE SOLID.
DIVISION 4.2	SPONTANEOUSLY COMBUSTIBLE.	FLAMMABLE SOLID.
DIVISION 4.3	DANGEROUS WHEN WET.	FLAMMABLE SOLID W.
DIVISION 5.1	OXIDIZER	OXIDIZER.
DIVISION 5.2	ORGANIC PEROXIDE.	ORGANIC PEROXIDE.
DIVISION 6.1, PG I and II.	POISON	POISON.
DIVISION 6.1, PG III.	KEEP AWAY FROM FOOD.	(None required.)
CLASS 7	RADIOACTIVE	RADIOACTIVE.
CLASS 8	CORROSIVE	CORROSIVE.
CLASS 9	CLASS 9	(None required.)

(3) *Intermixing old and new requirements.* During the transition periods provided in paragraph (b) of this section, it is recommended that hazard communication requirements be consistent where practicable, i.e., marking, labeling, placarding, and shipping paper descriptions should conform to either the old requirements of this subchapter in effect on September 30, 1991, or new requirements of this subchapter added or revised by the December 21, 1990, rule, without intermixing of communication elements. However, intermixing is permitted, during the applicable transition periods, for packaging, hazard communication, and handling provisions, as follows;

(i) A package may be manufactured to the old requirements of this subchapter in effect on September 30, 1991 (e.g., a DOT 17E drum) even if marked and labeled for the hazardous material contained therein under the new requirements of this subchapter appearing in the December 21, 1990 rule;

(ii) A package may be manufactured to the new requirements of this subchapter appearing in the December 21, 1990 rule (e.g., a UN 4G box) even if marked and labeled for the hazardous material contained therein under the old requirements of this subchapter in effect on September 30, 1991;

(iii) If either shipping names or identification numbers are identical, a shipping paper may display the old shipping description even if the package is marked and labeled under the new shipping description;

(iv) If either shipping names or identification numbers are identical, a shipping paper may display the new shipping description even if the package is marked and labeled under the old shipping description;

(v) Either old or new placards may be used during the appropriate placarding transition period regardless of whether old or new shipping descriptions and package markings are used; and

(vi) Either old or new handling requirements, including segregation and stowage, may be used during the applicable transition period (see paragraph (b)(3) of this section).

Issued in Washington, DC, on September 11, 1991 under authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 22220 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204 and 685

[Docket No. 91034-1117]

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; publication of OMB control numbers and announcement of effectiveness of a collection-of-information requirement.

SUMMARY: NMFS announces the effectiveness of a collection-of-information requirement, whereby operators of pelagic longline vessels in the Western Pacific Region are required to notify the Pacific Area Office of landings and/or transshipments. This rule also publishes the applicable Office of Management and Budget (OMB) control number and additional control numbers that have previously been approved by OMB but that have not been added to 50 CFR part 204.

EFFECTIVE DATE: This final rule and § 685.13, published May 13, 1991 (56 FR 24731), are effective September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 514-6660.

SUPPLEMENTARY INFORMATION: A final rule to implement amendment 2 to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP) was published May 31, 1991 (56 FR 24731). Section 685.13 of that rule requires operators of longline vessels to contact the Pacific Area Office within 12 hours of the vessel's arrival at any port in the FMP fishery management area and report the name of the vessel, name of the vessel operator, and the date and time of each landing or transshipment of management unit species by the vessel since its previous report of landings and/or transshipments. Because that requirement constitutes a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), it could not be enforced before OMB approval of the requirement. Delayed enforcement of § 685.13 was announced in the May 13, 1991, rule pending OMB approval. OMB has approved the collection-of-information requirement under OMB control number 0648-0214. Section 685.13 is effective September 30, 1991, and will be enforced from that date on.

In addition to the notice of OMB approval, OMB control numbers that were previously obtained but not added to 50 CFR part 204 are added by this rule.

List of Subjects in 50 CFR Parts 204 and 685

Reporting and recordkeeping requirements.

Dated: September 9, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 204 is amended as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

2. In § 204.1(b), the table is amended by removing in the left-hand column the 50 CFR section numbers §§ 680.4 through 681.5(c), and the corresponding OMB control numbers in the right-hand column, and adding in the left-hand column, in numerical order, the following 50 CFR section numbers, and adding in the right-hand column, in corresponding position, the following OMB control numbers:

§ 204.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

50 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * * *	
§ 680.4	-0204
§ 680.5	-0214
§ 680.10	-0204
§ 681.4	-0204
§ 681.5	-0214
§ 681.10	-0214
§ 681.25	-0214
§ 683.4	-0214
§ 683.9	-0204
§ 683.21	-0204
§ 683.25	-0204
§ 683.27	-0214
§ 683.29	-0214
§ 685.4	-0214
§ 685.8	-0204
§ 685.9	-0204
§ 685.11	-0214
§ 685.13	-0214
§ 685.14	-0214
§ 685.15	-0204
* * * * *	

[FR Doc. 91-22162 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 181
Wednesday, September 18, 1991

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.

RESOLUTION TRUST CORPORATION

12 CFR Part 1608

RIN-3205-AA17

Real Estate Appraisals

AGENCY: Resolution Trust Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The RTC is proposing to amend part 1608 to exempt additional transactions from the requirements of the final appraisal rule "(the RTC final rule") published on August 22, 1990 (55 FR 34219). If adopted, the proposed amendment would: (1) Eliminate the requirement for regulated institutions to obtain appraisals by certified or licensed appraisers for real estate-related financial transactions having a value, as defined in the RTC final rule, of $100,000 or less; (2) permit regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to the requirements of the federal insurer or guarantor; and (3) add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops.

The RTC is soliciting comments regarding all aspects of this proposed amendment to the RTC final rule. All comments received by the RTC will be reviewed and given appropriate consideration.

DATES: Comments must be received by November 18, 1991.

ADDRESSES: Comments should be directed to: John M. Buckley, Jr., Executive Secretary, RTC, 801 17th Street, NW., Washington, DC 20434. Comments may be hand delivered to room 314 on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected in the RTC Reading Room between 9 a.m. and 5 p.m. on business days. (FAX number: (202) 416-4753.)

FOR FURTHER INFORMATION CONTACT: Kathleen Riley, Review Appraiser, (202) 416-2185, David R. Wiley, Senior Asset Specialist, (202) 416-7136, or Robert Dodge, Assistant Director for Real Estate Management (202) 416-7475. Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434.

SUPPLEMENTARY INFORMATION: Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") directed the RTC, and the five financial institutions regulatory agencies,[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. In accordance with statutory requirements, RTC's final rule set minimum standards for appraisals used in connection with federal related transactions and identified those federally related transactions that require a State certified appraiser and those that require either a State certified or licensed appraiser. The RTC final rule was published August 22, 1990 (55 FR 34219).

When Services of Appraiser Required

Section 1121 of FIRREA, 12 U.S.C. 3350, defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia*, requires the services of an appraiser. In the notice of proposed rulemaking published February 22, 1990 (55 FR 6283), the RTC stated its intention not to require the services of a certified or licensed appraiser for transactions below a $15,000 threshold and asked for specific comment on "the amount and appropriateness of the *de minimis* level" (referred to herein as "the threshold level") below which the services of an appraiser would not be required.

The RTC only received seven comments on the threshold level provision, and these seven comments did not yield a consensus of opinion. One comment letter suggested no threshold level, some comment letters expressed the opinion that the level should be lower, some comment letters expressed support of the level, while others believed that the level should be raised to $50,000 or $100,000. Because title XI of FIRREA expressed a preference for uniform appraisal rules among the RTC and the five financial institutions regulatory agencies, and since the few comments received by the RTC were incongruous, the RTC set the threshold level at $50,000 based on its understanding that the other agencies intended to adopt a $50,000 threshold amount. In their respective final rules, the RTC, OCC, FDIC, OTS, and NCUA adopted a $50,000 threshold, while the FRB adopted a threshold of $100,000.

Subsequent to adoption by the OCC and FDIC of their respective final rules, individual bankers and representatives of associations representing a broad range of banks have contacted the OCC and FDIC to request that the threshold level be raised. After giving consideration to the requests of these bankers, along with consideration of opposing views raised by certain other groups, the OCC and FDIC are proposing to amend the threshold level from $50,000 to $100,000, having concluded that the experience of these bankers has indicated that the increased cost and delay associated with obtaining appraisals that conform to the OCC and FDIC rules for transactions below $100,000 outweigh any benefits that might be obtained from requiring appraisals by certified or licensed appraisers for these transactions or strict application of the standards. OTS is also proposing to amend the threshold level from $50,000 to $100,000.

The role of the RTC differs from that of the five regulatory agencies cited in footnote 1 in that the RTC is primarily a liquidator of assets, while the five regulatory agencies' mission involves supervision of institutions originating new lending transactions, including real estate related financial transactions. Subsequent to the adoption of its final rule, the RTC has not received requests similar to those discussed above that were received by the OCC and FDIC. However, the RTC stated in its response to comments in the RTC final rule that it may change the threshold level should additional experience indicate that a different level is appropriate.

In light of the preference for uniform appraisal rules among the RTC and the five financial institutions regulatory agencies, and the RTC's role as liquidator, the RTC believes that the threshold amount raised to $100,000 continues to project federal financial and public policy interests while reducing the cost of compliance to the

[1] These are: the Board of Governors of the Federal Reserve System ("FRB"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of Thrift Supervision ("OTS"), and the National Credit Union Administration ("NCUA").

public and RTC regulated institutions. For transactions below the threshold level, the RTC does not intend to discourage any RTC regulated institution from obtaining an appraisal in accordance with this regulation. In addition, any real estate-related financial transaction that does not require an appraisal will still have to comply with the RTC policies and procedures. Pursuant to these policies and procedures, all institutions must obtain an adequate evaluation of the real estate property or collateral by a competent person (who need not be a certified or licensed appraiser) before entering into any real estate-related financial transaction below the threshold level.

Also, the RTC realizes that reliable appraisals will still be required by FNMA, FHLMC, and GNMA for collateral of any loans that will be securitized and sold into the secondary mortgage market, even if appraisals are not required under this proposed amendment to the RTC final rule. Finally, the proposed change in increasing the threshold level may enhance the RTC's ability to sell real estate assets in a timely manner without incurring delays associated with obtaining an appraisal. Such would further RTC's legislative mandate of maximizing the net present value return from the sale of assets of regulated institutions under the jurisdiction of the RTC.

The requirements of title XI of FIRREA apply to federally related transactions. *See* FIRREA section 1110, 12 U.S.C. 3339 (requiring the RTC to prescribe standards for "the performance of real estate appraisals in connection with *federally related transactions*") (emphasis supplied); FIRREA section 1112, 12 U.S.C. 3341 (requiring the RTC to prescribe "which categories of *federally related transactions* should be appraised by a State certified appraiser and which by a State licensed appraiser") (emphasis supplied). "The term 'federally related transaction' means any real estate-related financial transaction which * * * requires the services of an appraiser." FIRREA section 1121, 12 U.S.C. 3350(4). Title XI of FIRREA does not require the use of an appraiser in connection with all real estate-related financial transactions, nor does it identify any class of real estate-related financial transactions for which financial institutions must obtain the services of an appraiser.

The RTC is responsible for ensuring the proper operations of its regulated institutions and, under 12 U.S.C. 1441a(b)(12), 1821(c)(2)(C) and 3331–51, the RTC is authorized to issue rules and regulations to carry out that responsibility. This authority permits the RTC to determine by regulation when the services of an appraiser should be required in connection with a real estate-related financial transaction involving an RTC regulated institution.

In light of the foregoing, the RTC now proposes to amend § 1608.3(a)(1) to increase the threshold level from $50,000 to $100,000.

Government Guaranteed Loans

The RTC also proposes to amend § 1608.3 to add a new paragraph (a)(6) which would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government if that loan is supported by a current appraisal that meets the standards of the Federal agency providing the insurance or guarantee. The RTC is proposing this amendment in response to concerns about the differences in requirements for appraisals under the RTC's final rule and appraisals required by various federal agencies insuring or guaranteeing the loans.

Because of differences in appraisal requirements, it has not always been clear what appraisal rules were applicable to particular transactions. Moreover, some entities have been told that certain federal loan insurance or guarantee programs do not allow their appraisers to report any additional information in an appraisal or prepare a supplement to an appraisal which includes information beyond that required on the agency's appraisal form. Consequently, some entities believed that they were required to obtain two separate appraisals in order to comply with the requirements of the Federal insurer or guarantor and the requirements of the appraisal regulations promulgated pursuant to Title XI of FIRREA.

The proposed amendment would eliminate this problem by exempting those transactions that involve federally insured or guaranteed loans from RTC's final rule if the transaction is supported by a current appraisal that conforms to the requirements of the insuring or guaranteeing agency. The RTC believes that the appraisal standards of the federal agencies that insure or guarantee loans protect federal financial and public policy interests in those real estate-related financial transactions. Consequently, requiring these transactions to meet additional appraisal requirements would increase costs for RTC regulation institutions and consumers of federally insured or furthering the purposes for which title XI of FIRREA was enacted.

Definition of "Real Estate" and "Real Property"

Finally, the RTC is proposing a technical amendment which adds a definition of "real estate" and "real property" to the RTC final rule. This change is being made in response to questions concerning the application of the RTC final rule to interests in real property such as mineral rights, standing timber and growing crops.

Title XI of FIRREA does not define "real estate" or "real property" nor does the context in which these terms are used unambiguously suggest that the terms are intended to have different technical meanings. For instance, "real estate-related financial transaction" is defined as:

> any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

FIRREA section 1121(5), 12 U.S.C. 3350. Title XI of FIRREA also directs the RTC to issue regulations requiring "that *real estate appraisals* be performed in accordance with generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation." (Emphasis supplied.) The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice ("USPAP"), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions.

In its final rule, the RTC used "real property" and "real estate" interchangeably to mean interests in an identified parcel or tract of land and improvements. However, it is not clear whether these terms were intended to include mineral rights, timber rights, or growing crops, since valuation of such interests generally requires the services of a professional other than a real estate appraiser. The proposed amendment makes the RTC's intent clear by defining "real property" and "real estate" for purposes of the appraisal regulation as "an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding

mineral rights, timber rights, or growing crops."

Public Comment

Public comment is solicited on all aspects of this proposed amendment to the RTC final rule, and the RTC will consider all comments received. All commenters are advised that, pursuant to the Administrative Procedure Act, all information provided to the RTC will be available for public inspection. To assist the RTC in compiling and analyzing the comments, the RTC requests that commenters use the following format:

A. *When Services of Appraiser Required.*

B. *Exemption of Government Guaranteed Loans.*

C. *Definition of "Real Property" or "Real Estate."*

D. *Other comments.*

All comments are voluntary. It is not required that comments be provided in the format outlined above.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board of Directors of RTC certifies that these changes, if adopted, are not expected to have a significant negative economic impact on a substantial number of small entities.

Overall, the RTC expects the changes to benefit consumers and RTC regulated institutions regardless of size by reducing costs without substantially increasing the risk of loss for the institutions arising from fraudulent or inaccurate appraisals of real estate collateral. Accordingly, the changes should not substantially increase the risk of loss to the federal deposit insurance fund arising from the affected transactions.

Paperwork Reduction Act

This notice of proposed rulemaking contains a program change to a collection of information already approved by the Office of Management and Budget (OMB) and assigned the control number 3205–0003. The collection appears at § 1608.4. This program change has been submitted to OMB for review and approval in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The change would reduce the burden by raising the threshold dollar value of transactions requiring an appraisal from $50,000 to $100,000. The estimated average paperwork burden contained in this RTC final rule, if amended as proposed, is described in the table below.

Number of Respondents: 825.

Annual Hours per Respondent: 24.7.

Total Recordkeeping Burden: 20,400.

This estimate represents the average hours that are in excess of what institutions should prudently already be expending. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to John M. Buckley, Jr., Executive Secretary, RTC, 801 17th Street NW., Washington, DC 20434, and to the Office of Management and Budget, Paperwork Reduction Project (3064–0103), Washington, DC 20503.

List of Subjects in 12 CFR Part 1608

Banks, Banking, Mortgages, Real estate appraisal, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set out in the preamble, part 1608 of chapter XVI of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1608—APPRAISALS

1. The authority citation for part 1608 is revised to read as follows:

Authority: 12 U.S.C. 1441a(b)(12), 1821(c)(2)(C), and 3331–51.

2. In § 1608.2, existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 1608.2 Definitions.

* * * * *

(g) *Real estate* or *real property* means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, and growing crops.

* * * * *

3. In § 1608.3, paragraphs (a) introductory text, (1), (4)(iv) and (5) are revised and new paragraph (a)(6) is added to read as follows:

§ 1608.3 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals not required.* An appraisal is not required for any real estate-related financial transaction in which:

(1) The transaction value is $100,000 or less, except as provided pursuant to published procedures to be established for individual transactions where variances in facts and circumstances indicate that a different standard is appropriate;

* * * * *

(4) * * *

(iv) There has been no evidence of an obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection;

(5) A regulated institution purchases pooled loans or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) A regulated institution makes or purchases a loan secured by real estate, which loan is insured or guaranteed by an agency of the United States government and is supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of September, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91–22460 Filed 9–17–91; 8:45 am]

BILLING CODE 6714-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

All-Terrain Vehicles; Termination of Rulemaking Proceeding

AGENCY: Consumer Product Safety Commission.

ACTION: Termination of rulemaking proceeding.

SUMMARY: In this notice, the commission announces that it is terminating its rulemaking proceeding to address risks associated with all-terrain vehicles (ATVs).[1] The currently available information does not show that there are any modifications to the design of currently-produced four-wheel ATVs that would reduce injuries and deaths. Therefore, a product standard that would adequately reduce deaths and injuries from ATVs is not feasible at this time. The Commission also has

[1] The Commission voted 2 to 1 to approve this notice terminating the rulemaking proceeding for ATVs. Chairman Jacqueline Jones-Smith and Commissioner Carol Dawson voted to approve the notice. Commissioner Anne Graham dissented, and a copy of her separate opinion (which references her statement of May 15, 1991, on ATVs) can be obtained from the Commission's Office of the Secretary.

concluded that an overall ban of ATVs is not appropriate because a large portion of ATV use is for nonrecreational purposes, because ATVs provide significant recreational value, and because there are no close substitutes for the product.

In 1985, the Commission published an advance notice of proposed rulemaking (ANPR) that commenced a rulemaking proceeding for ATVs. In the years immediately preceding the ANPR, the sales of ATVs and injuries and deaths as a result of ATV accidents had risen dramatically. During this time, ATVs were predominantly three-wheel vehicles, which are less stable than four-wheel ATVs.

In 1987, the Commission requested the United States Department of Justice to bring an action on the Commission's behalf under section 12 of the consumer Product Safety Act (CPSA) to declare ATVs to be an imminently hazardous consumer product. During the preparation of this action, negotiations were conducted with the ATV industry concerning actions that could be taken to reduce the deaths and injuries associated with ATVs. As a result, the Commission and the major distributors of ATVs filed preliminary consent decrees in the United States District Court for the District of Columbia at the same time the section 12 action was filed. Final consent decrees were approved by the court on April 28, 1988.

In the final consent decrees, the ATV distributors agreed to halt the distribution of three-wheel ATVs, to label ATVs with four types of warnings, to recommend that children under age 16 should not ride ATVs with engines over 90 cubic centimeters (cc) in size, to place safety posters in dealerships, to offer a safety video, to offer ATV purchasers and their immediate families a free rider training course, to run prime time television spots in the fall of 1988, and to include safety messages in all subsequent advertising and promotional materials.

In the consent decrees, the distributors also agreed to engage in a good faith effort over a four-month period to develop a voluntary safety standard for ATVs that would be acceptable to the Commission. At the end of the four-month period, the distributors submitted (1) a product standard that did not have a provision for lateral stability, (2) an agreement to maintain minimum levels of lateral stability, and (3) an 18-month plan to develop a test to address lateral stability performance. The Commission considered the combination of the product standard and the agreement to maintain a minimum level of lateral stability to be acceptable. According to the industry, there has been virtually complete adherence to the product standard and lateral stability agreements since that time.

The lateral stability of new ATVs was increased considerably by the requirement in the consent decrees that new 3-wheel ATVs cannot be sold. Four-wheel ATVs typically have a higher degree of lateral stability than do three-wheelers. Further, each distributor subject to the consent decrees agreed individually with the Commission that in the future that company would not make ATVs with a static lateral stability that is less than that of the four-wheel model with the lowest static stability in its 1988 production. Further investigations by the Commission's staff did not provide evidence that injuries and deaths from sideways rollover could be significantly reduced by further changes to currently-marketed ATVs.

Since 1985, there have been substantial gains in ATV safety. For all ATVs in use, the injury rate (per ATV) from 1985 to 1989 for both the general ATV-riding population and ATV riders below 16 years of age dropped by about 50 percent. The death rate (per ATV) declined by about 40 percent for the same period. This decline in the number of deaths is encouraging, but there still were about 250 deaths from ATVs in 1989. Thus, ATV riding is still a hazardous activity, and it is important that consumers still be advised of the dangers and how to reduce the likelihood of accidents.

The Commission remains especially concerned about the number of children under age 16 who are injured or killed in ATV accidents. To address this concern, the distributors of ATVs agreed to conduct undercover inspections of dealers and to take action to terminate the franchises of dealers that do not comply with the age recommendations of the consent decrees. The Commission will continue to monitor the effectiveness of this program.

The Commission has no statutory authority to prohibit children from riding ATVs that have already been purchased. Nevertheless, the commission could seek a ban of those future sales of ATVs where it is intended at the time each ATV is sold that it will be used by persons under age 16. The Commission is not pursuing this regulatory action at this time, in part because it cannot show that a ban of ATVs for use by children would be more effective in preventing such use than will the existing threat of termination of dealers' franchises for failure to follow the age recommendations in the consent decrees.

In the future, the Commission will monitor (1) compliance by the distributors with the consent decrees, and (2) the decrees' effectiveness in preventing persons under age 16 from riding adult-size ATVs, and the effectiveness of the rider training programs. The Commission's staff is also evaluating actions that could be taken to promote ATV safety at the State level of government.

ADDRESSES: Copies of documents relating to the rulemaking proceeding for ATVs can be obtained by writing the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Robert Frye, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6470.

SUPPLEMENTARY INFORMATION:

A. The Product

ATVs are three- or four-wheel off-road vehicles with handlebar steering and a seat that is straddled by the operator. ATVs use large, low-pressure tires that are suitable for traversing a wide variety of terrain. The industry definition limits ATVs to 50 inches or less in overall width with an unladen dry weight of less than 600 lbs. In order to ensure traction, the rear wheels are connected by a solid rear axle, which is driven by the engine; in other words, most ATVs have no differential. This makes it difficult to turn an ATV because the solid axle has a tendency to force the ATV to go straight. To avoid this, the operator unweights the inside wheels of the ATV by shifting his or her weight to allow the wheels to slip.

Although the ATV needs to be unweighted by the operator as described above, the operator may need to lean to the inside of the turn to prevent any tendency of the ATV to turn over. Also, the operator needs to shift his or her weight to the front of the vehicle when going uphill, to the rear of the vehicle when going downhill, and to the uphill side when going across a hill, in order to increase the stability of the vehicle under those conditions. The need for the operator to shift his or her body to help the vehicle turn and to maintain its stability is what is meant by the "rider-interactive" nature of ATVs. ATV manufacturers caution against riding on pavement, on public roads, or with a passenger.

ATVs come in a variety of combinations of features such as weight, power, and utilitarian attachments. A given ATV may be relatively more

suited to applications such as utility, general purpose use, sport riding, or competition. However, a given ATV typically can be used in more than one way. In 1989, about half of ATV drivers from households owning ATVs used their ATVs for nonrecreational purposes at least some of the time, and about 11 percent used their ATVs exclusively for nonrecreational activities. Overall, about 30 percent of ATV use is for nonrecreational purposes.

B. Background

In the spring of 1984, the Commission began an investigation of ATV-related accidents because of a surge in the number of deaths and injuries from such accidents which followed a large increase in the number of these vehicles being sold. On April 3, 1985, the Commission established a Task Force to study risks associated with ATVs. On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) in the **Federal Register**. 50 FR 23139. In the ANPR, the Commission announced that it was considering a wide range of possible regulatory options to address the safety concerns about ATVs and solicited comments on a number of issues. Among the options discussed in the ANPR were voluntary standards, mandatory standards or bans, an action in federal court to declare ATVs to be an imminent hazard under section 12 of the Consumer Product Safety Act (CPSA), and a proceeding under section 15 of the CPSA to declare that ATVs contain a defect that constitutes a substantial product hazard.

In response to the ANPR, the Commission received 2,952 comments, reflecting the views of 4,435 individuals. Almost all of these comments opposed a ban or recall of ATVs.

The Commission's ATV Task Force completed its work on September 30, 1986, and the Commission directed the staff to seek an enforcement action under section 12 of the CPSA to declare that ATVs are an imminently hazardous consumer product. In February 1987, the Commission's General Counsel formally requested that the U.S. Department of Justice bring a suit on the Commission's behalf. During the preparation of this action, negotiations were conducted with the ATV industry concerning actions that could be taken to reduce the deaths and injuries associated with ATVs. The Department of Justice filed a lawsuit against the major distributors of ATVs in the U.S. District Court for the District of Columbia on December 30, 1987, under section 12 of the CPSA. On the same date, the Commission and the major ATV distributors also filed preliminary consent decrees in the Section 12 litigation. The preliminary consent decrees contained limited remedial provisions and the distributors' commitment to negotiate more complete relief in final consent decrees, which were filed on March 14, 1988.

The final consent decrees implemented the Task Force findings and will be in effect for ten years from the date they were approved by the Court (April 28, 1988). The consent decrees provided the following:

1. Effective December 30, 1987, the sale of new three-wheel ATVs was stopped and all unsold three-wheel ATVs were recalled from the distribution chain. This prohibition could be lifted if a standard for three-wheel ATVs were developed that was acceptable to the Commission.

2. New safety labels containing the following information were required to be applied to both existing and new-production ATVs.

a. General Warning Label.

Warning

This vehicle can be hazardous to operate. A collision or rollover can occur quickly, even during routine maneuvers such as turning and driving on hills or over obstacles, if you fail to take proper precautions.

Severe Injury or Death can result if you do not follow these instructions:

- Before you Operate This ATV, Read the Owner's Manual and all Labels.
- Never Operate this ATV Without Proper Instruction. Beginners should complete a certified training course.
- Never Carry a Passenger. You increase your risk of losing control if you carry a passenger.
- Never Operate This ATV on Paved Surfaces. You increase your risk of losing control if you operate this ATV on pavement.
- Never Operate This ATV on Public Roads. You can collide with another vehicle if you operate this ATV on a public road.
- Always Wear an Approved Motorcycle Helmet, eye protection, and protective clothing.
- Never Consume Alcohol or Drugs before or while operating this ATV.
- Never Operate this ATV at Excessive Speeds. You increase your risk of losing control if you operate this ATV at speeds too fast for the terrain, visibility conditions, or your experience.
- Never Attempt Wheelies, Jumps, or Other Stunts.

b. Age Recommendation Warning Labels:

i. *For ATVs with engine sizes 70–90 cc,* the required label says:

Warning

Operation of this ATV by children under the age of 12 increases the risk of severe injury or death.

Adult supervision required for children under age 16.

Never permit children under age 12 to operate this ATV.

ii. *For ATVs with engine sizes greater than 90 cc,* the required label says:

Warning

Operating this ATV if you are under the age of 16 increases your chance of severe injury or death.

Never operate this ATV if you are under age 16.

c. Passenger Warning Label:

Warning

Riding as a passenger can cause the ATV to go out of control. Loss of control can cause a collision or rollover, which can result in severe injury or death.

Never ride as a passenger.

d. Tire Pressure Recommendations:

Improper tire pressure or overloading can cause loss of control. Loss of control can result in severe injury or death.

[A statement indicating the recommended tire pressure was on the left rear fender above the axle.]

The distributors sent the General Warning Label and the Age Recommendation Label to all past purchasers, and to all dealers for placement on ATVs in dealer inventory. These labels were also required to be placed on those ATVs in the inventory of the distributors that were produced prior to the 1990 model year. Beginning with the 1990 model year, all four labels were required to be on new ATVs.

3. Specific safety information was required in each owner's manual, including the Commission's toll-free Hotline number for additional ATV safety information.

4. Each ATV distributor was required to represent affirmatively that:

i. ATVs with engine sizes of 70–90 cc should be used only by those aged 12 and older; and

ii. ATVs with engine sizes greater than 90 cc should be used only by those aged 16 and older.

The distributors also made a commitment to use their best efforts to accomplish the goals of these age recommendations through their retail dealers, agents, or representatives who sell ATVs.

5. Each distributor was required to assure that each ATV dealer displayed a four-foot by four-foot poster and offered a safety video. Both the poster and the video were required to give specific warnings on ATV operation, including a warning that a child under 16 years old should never operate an adult-sized ATV.

6. Each distributor of ATVs was required to offer ATV purchasers and the members of their immediate families a free training course.

7. The distributors were required to run prime time television spots on ATV safety in the fall of 1988, and safety

messages were required to all advertising and promotional materials.

The consent decrees also provided that the distributors would attempt in good faith to reach agreement on voluntary standards for ATVs, that would be satisfactory to the Commission, within four months of the Court's approval of the consent decrees. The Specialty Vehicle Institute of America (SVIA) had been accredited in 1985 by the American National Standards Institute (ANSI) as Secretariat to use the ANSI canvass procedures for consenses development of a voluntary standard for ATVs. SVIA was chosen by the five companies that are parties to the consent decrees to coordinate the development of the standard provided for in the consent decrees.

The standard was developed by a voluntary standards committee consisting of representatives from each of the five companies involved. All of the involuntary standards committee's working group and plenary sessions were open to the public, in keeping with the Commission's regulations on voluntary standards participation and public meetings.

The standard developed for submission to the ANSI canvass procedure contained provisions addressing the following areas:

1. *Equipment and configuration requirements:*
   a. Front and rear brakes.
   b. Parking brakes.
   c. Engine stop switch.
   d. Clutch control.
   e. Throttle control.
   f. Gear shift control.
   g. Neutral indicator.
   h. Reverse indicator.
   i. Carry bar.
   j. Flag pole (for visibility) bracket.
   k. Manual fuel shutoff control.
   l. Handlebars.
   m. Operator foot shielding.
   n. Lighting equipment for adult ATVs.
   o. Spark arrestor.
   p. Tires.
   q. Tire pressure gauge.
   r. Lock or equivalent.
   s. Owner's manual.
   t. Mechanical suspension.
2. *Brake performance requirements.*
3. *Parking brake performance requirements.*
4. *Pitch stability.*
5. *Speed limitations for youth vehicles.*

Additional explanation of these provisions and of the reasons why they were selected by industry and approved by the Commission can be found in the **Federal Register** notice that announced the Commission's acceptance of the voluntary standard. 54 FR 1407, 1409–1412, 1413–1428 (January 13, 1989).

One area of concern with ATVs that was not addressed by the standard intended to be submitted to ANSI was the tendency of ATVs to roll over sideways under some conditions. The degree to which an ATV resists sideways rollover is broadly termed its "lateral stability." In this area, the industry and Commission's staff had a fundamental disagreement about how to ensure adequate ATV safety.

The staff advocated a minimum lateral stability coefficient, or K_{st}, of 1.0. K_{st} is a calculated relationship of the effective track width of the ATV to the height of its center of gravity. The industry contended, however, that a static measure, such as K_{st}, did not adequately reflect the dynamic accident scenarios on a highly "rider-interactive" machine like an ATV. A dynamic test for lateral stability that would be acceptable to the Commission had not been developed, and the Commission would not approve a voluntary standard that did not address this important area. To resolve this matter, the distributors proposed to address lateral stability in the following manner:

1. The voluntary standard to be submitted to ANSI would apply to four-wheel ATVs only; three-wheel ATVs therefore continued to be precluded from the marketplace under the provisions of the consent decrees.

2. Each company, while not agreeing to the appropriateness of a static criterion in defining lateral stability, agreed not to manufacture in the future any ATV with a K_{st} less than the lowest that was in the company's 1988 production. Each company supplied the Commission's staff with information about what this meant with respect to the K_{st} factors in that company's production models.

3. The distributors would engage in an 18-month effort to develop a dynamic standard for lateral stability that would be acceptable to the Commission. If this effort were successful, the dynamic standard would replace the K_{st} agreement; if it were not, the K_{st} agreement would continue.

The Commission found this agreement on lateral stability acceptable for the following reasons:

1. The fact that three-wheel ATVs (which had K_{st} of only up to 0.67) would no longer be manufactured meant that only the more stable four-wheel ATVs will be sold to purchasers of new ATVs. This partially satisfied the concern that motivated the staff's original proposal for a K_{st} of 1.0.

2. The lowest K_{st} in production in 1988 was 0.89. Other models of that manufacturer, and all models of other manufacturers, had values higher than 0.89. It appeared that in the future the typical ATV would have a K_{st} value approaching 1.0.

3. The Commission would still be free to issue a rule to require different or more stringent lateral stability requirements if additional data were obtained showing that such requirements could further reduce injuries and deaths.

The Commission directed the staff to monitor the distributors' effort to develop a dynamic lateral stability standard, and also directed the staff to proceed with the injury data collection and analysis and the other technical work necessary to issue a notice of proposed rulemaking for lateral stability if that became necessary. After considerable effort, however, the industry concluded that it would not be able to develop a dynamic standard that would be acceptable to the Commission's staff, and terminated its development effort. In notifying the Commission of this, the distributors acknowledged that the K_{st} agreements would remain in effect.

SVIA formally submitted the proposed voluntary standard to ANSI on July 26, 1989. It was approved as an American National Standard on February 1, 1990, as ANSI/SVIA 1–1990.

C. Monitoring the Consent Decrees

Between December 1988 and July 1989, the Commission conducted two undercover surveys of ATV dealers to determine the degree of compliance with the user age recommendations of the consent decrees. In December 1988, the Commission surveyed all dealers in the Commonwealth of Virginia and found that approximately 70 percent were making age recommendations that were inconsistent with the provisions of the consent decrees (*i.e.*, that ATVs having engine sizes between 70 and 90 cc were to be used only by those 12 years old and older and that ATVs having engine sizes greater than 90 cc were to be used only by those age 16 and older).

At the request of the CPSC's staff, the ATV distributors immediately sent mailgrams to all of their ATV dealers, reiterating the requirement that dealers must comply with the age recommendations and warning that actions to terminate a dealer's franchise to market ATVs could result if the age recommendations were not followed. The distributors also took steps to modify dealer contracts, where necessary, to assure that such contracts provided for dealer termination if the dealer failed to comply with the age recommendations.

In June and July of 1989, a nationwide statistical survey, using a sample of 227 ATV dealers, was conducted to determine the degree of compliance with the age recommendations. This survey also found substantial noncompliance (about 56 percent) with the age recommendations of the consent decrees.

The Commission negotiated with the ATV distributors concerning the failure of the ATV dealers to conform with the age recommendations. All ATV distributors agreed to take steps to terminate the franchise of any ATV dealer who failed to comply with the age recommendations. Subsequent undercover inspections by the Commission's staff, while not statistically based, have indicated an improvement in compliance with the age recommendations.

The Commission's staff also has been engaged in extensive activities to monitor compliance with the provisions of the consent decrees other than those relating to the age recommendations. For example, approximately 2,000 inspections of ATV dealers have been conducted to determine, among other things, whether ATVs have the required labels and hang tags and whether the dealers posted an updated safety poster and provided the consumer with an updated safety alert and information about training. Deficiencies were brought to the distributors' attention for any necessary corrective action.

In addition, the staff focused attention on the distributors' training programs. The Commission will examine what, if any, additional actions can be taken by the distributors, within the context of the consent decrees, to improve rider participation in the training program.

D. ATV-Related Injuries and Deaths

1. *Injuries.* Although current injury rates leave no doubt that ATV riding can be a dangerous activity, the rate of injury has been reduced significantly over the span of the Commission's involvement. The estimated number of injuries treated in U.S. hospital emergency rooms declined from about 86,000 in 1986 to about 52,000 in 1990. The injury rate for the general population (per ATV) dropped by about 50 percent between 1985 and 1989. The injury rate (per ATV) for children under 16 years of age also dropped by about 50 percent. The staff projects a continued decline in injuries through 1992 for all types of ATVs combined, due to an increasing percentage of ATVs in use that are four-wheelers and to a decreasing number of ATVs in use. The estimates of future injuries do not include any additional savings in injuries that may occur because of the consent decrees or changes to ATVs required by the ANSI voluntary standard. Too few machines affected by the 1988 consent decrees or the 1990 voluntary standard were in use in 1989 (the latest year for death data) or 1990 (the latest year for injury data) to estimate the effect of either the decree or the standard.

2. *Deaths.* ATV-related fatalities declined from an estimated 347 in 1986 to about 250 in 1989. The death rate per ATV dropped by about 40 percent between 1985 and 1989. The rate for children under 16 years of age also dropped about 40 percent. Estimated total deaths are expected to decline to about 240 in 1992, with the decrease again due to increased use of four-wheelers and reduced numbers of ATVs in use. As with injuries, the estimates of future deaths do not include any savings to deaths that may occur due to the voluntary standard and the consent decrees.

The 1989 ATV-related deaths were examined to determine the factors associated with high risk of death. A CPSC staff team reviewed the possible causes for these incidents. They concluded that the accidents that caused 131 of the 163 deaths were related to the actions of the operator, *e.g.*, driving under the influence of alcohol, driving on public roads, or carrying passengers. For instance, 65 percent of the deaths occurred when the ATV was driven on or crossing a road. In only three incidents was lateral stability believed to be the most important cause of the accident. In 11 other incidents lateral stability was thought to have contributed to the accident.

It has been observed that ATV riders on occasion explore the performance limits of themselves and their vehicles, for example, by going around corners or across terrain as fast as they perceive is possible. As noted above, many of the incident report indicate that operator and environment factors were the primary reasons the accident occurred. These factors would not be addressed by changes in product performance standards. Therefore, as long as ATVs are available for consumer use, there will be a certain irreducible level of incidents, no matter what standards are developed for ATVs.

E. Statutory Authority to Address ATV Risks

The Commission potentially could address risks associated with ATVs under either the CPSA or the Federal Hazardous Substances Act ("FHSA"). Under these acts, the Commission has authority to:

1. Issue consumer product safety standards, which consist of: (a) Requirements expressed in terms of performance requirements or (b) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions (CPSA, 7, 9);

2. Declare a product to be a banned hazardous product (CPSA 8, 9);

3. File an action in a United States district court to have a product declared to be an imminently hazardous consumer product (CPSA 12);

4. After an opportunity for a hearing, determine that a product presents a substantial product hazard and, where appropriate, order the remedies of public notice and repair or replacement of the product or refund of its purchase price (less a reasonable allowance for use) (CPSA 15);

5. Issue a rule to require a manufacturer to provide the Commission and consumers with performance and technical data related to performance and safety (CPSA 27(e)); and

6. Declare ATVs intended for use by children to be a hazardous substance because the ATVs present a mechanical hazard (FHSA 2(f)(1)(D), 2(q)(1)(A), 3(e)–(i)).

As noted above, the Commission already has brought an action under section 12 of the CPSA, which resulted in the consent decrees described above. The consent decrees provide for a comprehensive program for warnings, instructions, and rider training for ATVs. Thus, there is no need for any further performance and technical data to be provided pursuant to the authority of CPSA 27(e), 15 U.S.C. 2076(e), to address the subjects already covered by the consent decrees. The statutes that establish the Commission's authority to issue standards or bans (CPSA 7 and 9, FHSA 2 and 3) require as a prerequisite to such action that the Commission establish that there is an unreasonable risk of injury associated with the product. An unreasonable risk is one that can be eliminated or reduced at a reasonable risk is one that can be eliminated or reduced at a reasonable cost. Thus, to determine whether a risk is unreasonable involves a balancing of the benefits of the action needed to reduce the risk (generally, these benefits are the reduction of injuries and deaths) against the costs imposed on manufacturers and consumers by the

action. See, *e.g.*, H.R. Rep. No. 92-1153, 92d Cong., 2d Sess. 33 (1972).

The courts that have reviewed the Commission rules involving unreasonable risk have characterized it in the same vein. For example, the courts have stated that the unreasonable risk requirement:

> necessarily involves a balancing test like that familiar in tort law: The regulation may issue if the severity of the injury that may result from the product, factored by the likelihood of the injury, offsets the harm the regulation itself imposes upon manufacturers and consumers.

Forester v. *CPSC*, 559 F.2d 774, 789 (D.C. Cir. 1977). *Accord, Gulf South Insulation* v. *CPSC*, 701 F.2d 1137, 1142–43 (5th Cir. 1983); *Southland Mower Co.* v. *CPSC*, 619 F.2d 499, 508–509 (5th Cir. 1980); *Aqua Slide 'N' Dive* v. *CPSC*, 569 F.2d 831, 839 (5th Cir. 1978).

In the 1981 Omnibus Budget Reconciliation Act, a specific requirement was enacted that the Commission may not promulgate a standard or ban under the CPSA or the FHSA unless the Commission "finds (and includes such finding in the rule) * * * that the benefits expected from the rule bear a reasonable relationship to its costs." 15 U.S.C. 1262(i)(2)(C), 2058(f)(3)(E). The legislative history of this provision makes it clear that this required finding was intended to codify the prior court cases that had defined unreasonable risk. H.R. Rep. No. 97–208, 97th Cong., 1st Sess. 875 (1981).

In order to demonstrate that a rule is reasonably necessary to eliminate or adequately reduce an unreasonable risk, the Commission is required to demonstrate by substantial evidence on the record taken as a whole that the rule in fact will reduce injuries or deaths. As discussed below, this finding is an obstacle to any of the product standards that have been considered for ATVs.

One element of the "costs" of a ban, or of a standard that reduces the capabilities of the product, is the loss of enjoyment and utility that users of the product will experience because they either can no longer buy the product or use it in the same way. As discussed below, this finding is an obstacle to the bans, and some of the standards, that have been considered for ATVs.

F. Potential Regulatory Options for ATVs

In considering various options available for future action, the Commission considered the further development of performance standards for ATVs involving vehicle characteristics such as lateral stability, engine size, vehicle weight or speed capability, and auxiliary protective devices. The Commission also considered possible bans, including a ban of all ATVs and a ban of the sale of adult-size ATVs for the use of children under 16. Lastly, the Commission considered whether recalls, replacement, or refunds were appropriate in these circumstances. The reasons these options were rejected are explained below.

1. Performance standards

a. *Lateral stability.* As explained above, each ATV distributor subject to the consent decrees has agreed to make ATVs that have lateral stability coefficients at least as large as the minimum that was in its 1988 production. The Commission's staff, however, continued to investigate whether still larger coefficients should be required.

The staff examined injury and death reports to determine whether lateral stability was a major factor in these incidents. As noted above, in the 1989 death data, operator behavior was judged to be a major factor in 131 of the 163 deaths. Only in three incidents did the staff believe that lateral stability was the major cause of the accident.

A staff team reviewed a subset of 171 cases from the 1989 injury survey where four-wheel ATVs tipped or overturned. Factors contributing to the accident were ranked by the team. As in the death data, operator behavior was the most frequently cited primary contributing factor. Lateral stability received only four first place rankings as a factor contributing to the accident. In an additional 12 cases, lateral stability was deemed to be a causative factor, but not the primary one.

Thus, the reports of accidents involving injuries and deaths do not reveal a large number of cases that might hold some potential for being eliminated by increases in K_{st}.

The staff also examined incident data to determine whether there was any statistical correlation between K_{st}, among other factors, and risk of injury. In a briefing package dated September 26, 1990, the staff analyzed ATV incident and exposure data for information relating injury reduction to lateral stability criteria. In the report, the staff concluded that it could not find that raising the minimum K_{st} level in the four-wheel ATVs now on the market would have a measurable impact on the risk of injury.

Subsequent to the September 1990 report, the staff examined the effect of various mechanical factors on the risk of injury associated with four-wheel ATVs. Some effects on risk were noted with changes of K_{st}. However, for the General Use Vehicles (which represent 76 percent of ATVs in use), the risk of injury was not consistently associated, statistically, with various combinations of vehicle weight and K_{st} categories. For the other categories of ATVs (Youth, Utility, and Competition), the number of exposure and incident data observations were too few for a meaningful analysis of K_{st}. In addition, the statistical analysis necessarily assumed that rider behavior and environmental factors remain constant. Because this is not actually the case, however, such a statistical analysis may overestimate the gains achievable from safety-related design changes. For these and other reasons, the results of the staff's latest analysis were judged to be inconclusive.

For the reasons stated above, further data collection efforts would be difficult and costly to complete and would not likely lead to different conclusions. Thus, the presently-available data, or data that could be obtained with any reasonable expenditure of time or resources, would not establish that increases of K_{st} to the values represented by the upper limits of currently-available vehicles, 1.00 or slightly above, would significantly reduce ATV deaths or injuries.

Before the Commission could determine whether it should require that K_{st} should be increased to values significantly above those in presently-available vehicles, extensive vehicle development projects would have to be conducted to determine whether such vehicles are technically feasible. Such vehicle development would be needed to determine whether steering or handling would be adversely affected, whether the ability to perform tasks expected of ATVs would not be hindered by excessive width or insufficient ground clearance, and whether other detrimental characteristics would be introduced. Such development would entail complex research, product redesign, analysis, and prototype testing. Such work is beyond CPSC's expertise and financial resources, and, at least with respect to product designs, is beyond its statutory authority.

Because the Commission cannot presently demonstrate that increases in K_{st} will decrease the injuries and deaths, it cannot support the prerequisite statutory finding, explained in section D of this notice, that the benefits of a standard requiring increased K_{st} would bear a reasonable relationship to its costs.

b. *Weight.* The statistical analysis showed that the higher the vehicle weight, the lower the risk. However,

such a statistical correlation does not warrant a conclusion that increasing the weight of ATVs would reduce injuries. The correlation may be due to other factors associated with the weight of ATVs, including rider behavior and how the ATVs are used (recreation vs. utility). Thus, the Commission is unable to estimate benefits from a standard for minimum weight. Also, it is questionable whether a court would consider a standard for minimum weight to be a performance standard, which is the only type of standard the Commission is authorized to issue.

c. *Maximum speed, power, or engine size.* Several other vehicle characteristics have been proposed for possible standards, including vehicle speed capability, maximum engine power, and maximum engine size.

Reducing speed capability to a point that would clearly reduce injuries would reduce the utility of the machine. Reliable information on the speeds involved in ATV accidents is not available. Rollover and other modes of loss of control can occur at low speeds. Although high speed operation may be associated with increased risk, examination of vehicle performance characteristics and the injury data does not suggest a safe speed.

Many of the same considerations exist for a standard to limit engine size or power. The utility of the vehicle is highly influenced by its power. Further, there is no suggestion of an appropriate maximum level of power. Very different power characteristics may be obtained from engines of the same size, depending on tuning, gearing and other aspects of design. The reported injury and death incidents include a wide range of engine sizes and horsepower ratings.

Thus, the Commission would be unable to estimate the magnitude of any injury reduction that might result from limiting speed, power, or engine size, much less have a basis for determining that the resulting adverse effect on the utility and enjoyment of the vehicles is warranted by the reduction. Thus, the statutory prerequisite finding that the benefits bear a reasonable relationship to the costs cannot be made for such standards. In addition, a limitation on engine size may not be a performance requirement, as required by statute.

d. *Roll bars, roll cages, etc.* Devices such as roll cages or roll bars, together with operator restraints, have been used to reduce injuries with other motorized vehicles. ATV riding techniques and the riding environment, however, have many differences from those for other motorized vehicles. In order for such devices to be effective, the rider would have to be restrained so he or she would not extend outside the zone of protection provided by, for example, a roll cage. The rider, however, must be able to move forward and back and side to side in order to control the vehicle. Thus, the restraint would have to allow for such movement, and the roll cage would have to extend far enough outward and upward to prevent the loosely-restrained operator from contacting the ground, rocks, or other terrain features if the vehicle rolls over. The resulting roll cage would likely greatly extend the width and height of the ATV. Because ATVs operate in narrow spaces between trees, rocks, etc. and on narrow trails, this increased size might significantly adversely affect ATV utility and may increase the likelihood of collison with trees, etc. In addition, the presently-available data do not allow an estimate of how many riders would use the restraint system. Accordingly, presently-available data do not allow an estimate of how many injuries could be prevented by roll cages, etc., or of how many injuries might be caused by new hazards introduced by these devices. There is no support for a conclusion that the benefits of such devices bear a reasonable relationship to their costs.

2. *A ban of all new ATVs.* The Commission has concluded that a ban of the sale of ATVs is not appropriate because a large portion of ATVs are used for nonrecreational purposes, because ATVs provide consumers with substantial recreational value, and because there are no close substitutes for the product. Although a four-wheel ATV can be viewed as a close substitute for a three-wheel ATV, there is no close substitute for ATVs in general.

About half of all ATVs are used at least part of the time for nonrecreational purposes, and about 30 percent of all ATV use is for such purposes. ATVs also provide substantial recreational value. Numerous ATV users oppose any ban or recall of ATVs. The enthusiasm of ATV riders is shown also by the existence of clubs and magazines devoted to the sport. After considering these facts, the Commission concluded that taking actions to ensure that potential purchasers of ATVs are informed of the risks involved and that the riders of ATVs are informed about the actions that can be taken to reduce those risks is preferable to a ban. The warnings, instructions, and training required by the consent decrees are intended to accomplish these goals.

3. *Ban the sale of all new adult-sized ATVs for use by children under 16 years of age.* The Commission has no authority to prohibit the use of ATVs by children. The Commission only regulates the manufacturers, distributors, and retailers of products; it has no authority to mandate consumers' behavior. Because of the number of children under age 16 who have been injured or killed in ATV accidents on adult-sized ATVs, however, one option available to the Commission is to seek a ban of the sale of all new adult-sized ATVs for use by children under age 16. In connection with such a ban, the Commission could seek a requirement that the seller inquire about whether the ATV is intended for the use of someone under 16.

It is not clear, however, that such a ban will be any more effective in preventing injuries to children than are the age recommendations in the consent decrees, *i.e.*, that ATVs over 90 cc in engine size should not be ridden by persons under 16, and the agreements by the distributors to monitor dealer compliance with the age recommendations and terminate franchises of dealers who do not comply. In addition, such a ban would be extremely difficult to enforce and would likely shift much of the burden of monitoring compliance from the distributors to the Commission.

At present, the consent decrees require ATV hang tags and labels warning against the use of adult-sized ATVs by children under 16. In addition, some distributors obtain formal acknowledgment from purchasers that they have been informed of risks.

The consent decrees require that distributors use their best efforts to assure that adult-sized ATVs are not purchased for use by children. The distributors have assured CPSC that they are monitoring the dealers' conformance with the age recommendations. While serious concerns have been raised in the past about the level of conformance, the distributors have declared their intention to monitor and enforce this requirement through their franchise agreements. Therefore, it can be expected that future buyers will be better advised that children should not ride adult-sized ATVs.

The Commission will be monitoring the success of the distributors' efforts to ensure that the age recommendations are followed, and could consider whether a ban of ATVs for use by children is warranted if the distributors' age recommendations prove to be ineffective.

Although the Commission does not have the statutory authority to prohibit children from riding adult-size ATVs, the states do have such authority.

Therefore, the Commission has directed its staff to examine the feasibility of an action plan which would develop model legislation and identify key groups and organizations to help promote ATV safety at the state level of government.

4. *Replacements or refunds.* Before the Commission can order replacement or refunds for products, the Commission must provide an opportunity for a hearing and find, among other things, that the product contains a "defect" that creates a substantial risk of injury to the public. If the Commission finds that a defective product presents a substantial risk of injury to the public and that the following relief is in the public interest, the Commission could order that a seller of the product take whichever of the following actions the seller elects: (1) Repair the defect, (2) replace the product with a nondefective product, or (3) refund the purchase price, less a reasonable allowance for use. *Id.* While the ATV distributors could elect one of the three remedies, a refund of the purchase price, less the statutorily required allowance for use, would probably be the most feasible of the alternatives to implement.

With regard to four-wheel ATVs, the same reasons why the Commission could not find from the currently-available information that a standard or ban was warranted would make it difficult to take action against four wheelers under section 15 of the CPSA. Although it might be easier to show that three-wheel ATVs contain a defect, the Commission cannot at this time conclude that an order for refunds of three-wheel ATVs would be in the public interest.

Under the consent decrees, new three-wheel ATVs have not been sold since 1987. Despite the fact that safety concerns about three-wheel ATVs have been well publicized, there is an active market for used three-wheel ATVs. Owners of three-wheel ATVs who want to sell them can do so on the used market. Thus, a refund may have little or no effect in removing three-wheel ATVs from the market.

Furthermore, based on the Commission's experience, an order for refunds, etc., would most likely result in protracted litigation. Due to the expected length of the process, and due to the projected life of the product, relatively few three-wheel ATVs would likely be in use at its conclusion. Even if finally achieved, the Commission sees no point in pursuing a such remedy when it would have little or no beneficial effect on the safety of ATV riders.

G. Termination of Rulemaking

For the reasons stated above, the Commission concludes that currently available evidence does not establish that there is an unreasonable risk associated with the new four-wheel ATVs that are now being sold. Further, the Commission has no reason to believe that information demonstrating the existence of an unreasonably risk will become available in the foreseeable future. Accordingly, the Commission cannot conclude that a rule is reasonably necessary to eliminate or adequately reduce the risks of injury identified in the ANPR. Therefore, the Commission concludes that a proposed rule is not in the public interest. Since there is no prospect for proposing a rule in the near future, the Commission hereby terminates the rulemaking proceeding that was commenced by the publication of the 1985 ANPR. In taking this action, the Commission specifically is not relying on a voluntary standard under the procedure set forth in section 9(b)(2) of the CPSA, 15 U.S.C. 2058(b)(2).

H. Future Commission Actions on ATVS

Although rulemaking is not appropriate for addressing the risks associated with ATVs, ATV riding remains a potentially hazardous activity. It is essential that ATV riders be aware of the risks involved so they can exercise appropriate precautions. The information provided to purchasers by the actions required by the consent decrees is essential toward this end. So is compliance with the age recommendations established by the consent decrees. Therefore, the Commission will continue, on a priority basis, to monitor compliance with the terms of the consent decrees. Such action could include undercover surveys of ATV dealers to determine compliance with the user age recommendations, dealer inspections to determine compliance with consumer information and training requirements, and evaluations of distributor training programs. If subsequent information indicates that the actions taken under the consent decrees are insufficient, the Commission may reconsider whether rulemaking is an appropriate response to ATV hazards.

In addition, the authority available to the states to address riding of ATVs by children is much stronger than that available to the Commission. Therefore, the Commission's staff is evaluating a possible program that could provide the governments of selected states (those without comprehensive ATV safety legislation) with ATV background and technical information, injury data, and model legislation. Such model legislation might address such areas as minimum driver age and helmet usage.

The Commission's staff will also continue its efforts to advise ATV users and potential users of the dangers associated with ATVs.

Dated: September 9, 1991.

Sadye E. Dunn,

Secretary of the Commission.

[FR Doc. 91-21999 Filed 9-17-91; 8:45 am]

BILLING CODE 6355-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3997-9]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate a dredged material disposal site located offshore of Rogue River, Oregon, for the disposal of dredged material removed from the federal navigation project at the Rogue River, Oregon, and for materials dredged during other actions authorized by, and in accordance with, section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA). This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material. This proposed site designation is for an indefinite period of time, but the site is subject to continuing monitoring to insure that unacceptable, adverse environmental impacts do not occur.

DATES: Comments must be received on or before November 4, 1991.

ADDRESSES: Comments on this proposed rule should be sent to: John Malek, Dredging and Ocean Dumping Coordinator, Region 10, WD-128.

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), room 2904 (rear), 401 M Street Southwest, Washington, DC.

EPA Region 10, 1200 Sixth Avenue Seattle, Washington.

U.S. Army Corps of Engineers, North Pacific Division, U.S. Custom House, 220 Northwest Eighth, Portland, Oregon.

U.S. Army Corps of Engineers, Portland District, 319 Southwest Pine, Portland Oregon.

FOR FURTHER INFORMATION CONTACT: John Malek, 206/553-1286.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1403 *et seq.* ("The Act"), gives the Administrator the authority to designate sites when ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR chapter I, subchapter H, § 228.4) state that ocean dumping site will be designated by publication in part 228. A list of "Approved and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was last updated on February 2, 1990 (55 FR 3688 *et seq.*). That list established this site an interim site. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, (NEPA) requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into agency decision-making processes careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186 (May 7, 1974).

EPA has prepared a draft EIS entitled "Rogue, Oregon, Dredged Material Disposal Site Designation" (EPA 910/9-91-028). As a separate but concurrent action, a notice of availability of the draft EIS for public review and comment was published in the **Federal Register**. It is planned that the public review periods for the draft EIS and this proposed rule overlap. However, comments will be accepted on either the draft EIS or proposed rule until the end of the latest 45-day period. Comments will be responded to in the final EIS and rule. Anyone desiring a copy of the EIS may obtain one from the address given above.

The action discussed in the draft EIS is designation for continuing use of an ocean disposal site for dredged material. The purpose of designation is to provide an environmentally acceptable location for ocean disposal of dredged material. The appropriateness of ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The draft EIS provides documentation to support final designation of an ocean dredged material disposal site (ODMDS) for continuing use to be located approximately two nautical miles (nmi) southwest from the mouth of the Rogue River. Site designation studies were conducted by the Portland District, Corps of Engineers, in consultation with EPA, Region 10. The ODMDS site proposed for designation is located in the area best suited for dredged material disposal in terms of environmental and navigational safety factors. No significant or long-term adverse environmental effects are predicted to result from the designation. The designated ODMDS would continue to receive sediments dredged by the Corps of Engineers to maintain the federally authorized navigation project at the Rogue River, Oregon, and for disposal of material dredged during other actions authorized in accordance with section 103 of the MPRSA. Before any disposal may occur, a specific evaluation by the Corps must be made using EPA's ocean dumping criteria. EPA makes an independent evaluation of the proposal and has the right to disapprove the actual disposal.

The study and final designation process are being conducted in accordance with the MPRSA, the Ocean Dumping Regulations, and other applicable federal environmental legislation.

C. Proposed Site Description

The proposed site is located approximately two nmi offshore of the mouth of the Rogue River, Oregon, and occupies an area of about 116 acres (.14 square nautical miles). Water depths within the area average 60 feet (18 meters). The coordinates of the site are as follows (NAD 83):

42° 24′ 15″N	124° 26′ 52″ W
42° 24′ 23″N	124° 26′ 39″ W
42° 23′ 39″N	124° 27′ 17″ W
42° 23′ 51″N	124° 27′ 30″ W

If at any time disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, the use of that site will be terminated as soon as suitable alternate diposal sites can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The proposed site, as discussed below under the eleven specific factors, is acceptable under the five general criteria, except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the draft EIS, that a site off the Continental Shelf is not feasible and that no environmental benefits would be obtained by selecting such a site instead of that proposed in this action. Historical use at the existing site has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the proposed site are reviewed below in terms of the eleven factors.

1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast.

40 CFR 228.6(a)(1). The site lies in 52 to 90 feet (16 to 27.5 m) of water, approximately 2.0 nmi southwest from the entrance to the Rogue River. Coordinates are (NAD 83):

42° 24′ 15″N	124° 26′ 52″ W
42° 24′ 23″N	124° 26′ 39″ W
42° 23′ 39″N	124° 27′ 17″ W
42° 23′ 51″N	124° 27′ 30″ W

The center of the site is on a 216 degree azimuth from the river mouth. Appendix B of the draft EIS contains a detailed discussion of the bottom topography of the site. In general, the interim site lies on bottom contours sloping at a rate of 8/1000 feet to the WSW.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Area of Living Resources in Adult and Juvenile Phases.

40 CFR 228.6(a)(2). Aquatic resources of the site are described in detail in appendix A of the draft EIS. The existing disposal site is located in the nearshore area, and the overlying waters contain many nearshore pelagic organisms which occur in the water column. These include zooplankton such as copepods, euphausiids, pteropods, chaetognaths and meroplankton (fish, crab and other invertebrate larvae). These organisms generally display seasonal changes in abundance. Since there present over most of the coast, those from Rouge are not critical to the overall coastal population. Based on evidence from previous zooplankton and larval fish studies, it appears that there will be no impacts to organisms in the water column.

Based on the analysis of benthic samples collected at and around the Rogue disposal site, the disposal area contains a benthic fauna characteristic of nearshore, sandy, wave-influenced regions common along the coasts of the Pacific Northwest. The sand-dwelling forms tolerate or require high sediment flux. Accordingly, continued use of the site for disposal is not expected to harm, but may enhance, these organisms.

The dominant commercially and recreationally important macroinvertebrate species in the inshore coastal area are shellfish, Dungeness crab and squid. The nearshore area off the Rogue River supports a variety of pelagic and demersal fish species. Pelagic species include anadromous salmon, steelhead, cutthroat trout, and shad that migrate through the estuaries to upriver spawning areas. Other pelagic species include the Pacific herring, anchovy, surf smelt, and sea perch. Demersal species are present in the area and include a number of flatfish which occur primarily over the sandflats. English sole, sandsole, and starry flounder spawn in the inshore coastal area in the summer and juveniles of these (as well as other) marine species may rear in the estuary.

The disposal site is in an area where numerous species of birds and marine mammals occur in the pelagic nearshore and shoreline habitats in and surrounding the proposed disposal site.

Portland District requested an endangered species listing for the ODMDS from U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) as part of their coordination of the Site Evaluation Report. At that time only the brown pelican and the gray whale were listed. Based on previous biological assessments conducted along the Oregon coast regarding impacts to the brown pelican and the gray whale, it was concluded that no impact to either species is anticipated from the proposed designation and use. A letter of concurrence from the NMFS concluded that no impacts to the brown pelican or gray whale would be anticipated. This information was presented to EPA in the final Site Evaluation Report. Subsequently, the Corps and EPA were informed by the NMFS that they have revised their list of threatened/endangered species. Species listed by the NMFS now include the gray, humpback, blue, fin, sei, right, and sperm whales; northern (Steller) sea lions; leatherback sea turtles; and Sacramento River winter run chinook salmon. A biological assessment was prepared by the Corps addressing the newly listed species and revising previous biological assessment on the gray whale. The assessment concluded that no impact to any of the species is anticipated by designation and use of ODMDDS. Based on this and previous biological assessments conducted along the Oregon coast, no impacts to any threatened or endangered species are anticipated as a result of designation and continued use of the Rogue ODMS. EPA is requesting that the NMFS and USFWS review this determination during public review of this draft EIS.

In summary, the proposed ODMDS contains living resources that could be affected by disposal activities. However, evaluation of past disposal activities do not indicate that unacceptable adverse effects to these resources have occurred. In the absence of any indication that the resources in proximity to the interim site have been impacted, this site is considered acceptable for final ODMDS designation.

3. Location in Relation to Beaches and Other Amenity Areas

40 CFR 228.6(a)(3). The northwest corner of the proposed site is just over 2,000 yards (1828 m) from the end of the south jetty. The inshore corner of the site lies approximately 1,500 yards (1372m) offshore.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any

40 CFR 228.6(a)(4). The disposal site will receive dredged materials transported by either government or private contractor hopper dredges or ocean-going barges. The dredges available for use at the Rogue River have hopper capacities of 800 to 1,500 cubic yards. Barges have a greater capacity, up to 4,000 cubic yards. Thus, no more than 4,000 cubic yards would be disposed at any one time. For steerage purposes, the ships would be under power and moving while disposing. This would increase dispersion. Annual dredging volume averages just under 50,000 cubic yards and has ranged as high as 142,000 cubic yards. Disposal details are listed in the draft EIS.

The material to be dredged consists of medium to coarse sands. Appendices B and D of the draft EIS give results of sediment analysis performed on these materials. These materials are considered to meet the exclusion criteria from further testing as noted in 40 CFR 227.13. Periodic re-evaluation of sediment characteristics by the Corps and EPA occur as part of our management responsibilities.

5. Feasibility of Surveillance and Monitoring

40 CFR 228.6(a)(5). The proximity of the interim disposal site to shore facilities creates an ideal situation for shore-based monitoring of disposal activities. Routinely, a Coast Guard vessel patrols the entrance and nearshore areas, so surveillance can also be accomplished by surface vessel.

Following formal designation of an ODMDS, EPA and the Corps will develop a site management plan which will address post-disposal monitoring. All Oregon ODMDS are periodically monitored jointly by the Corps and EPA already. Several research groups are available in the area to perform any required work. The work could be performed from small surface research vessels at a reasonable cost.

6. Disposal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction, and Velocity

40 CFR 228.6(a)(6). The material dredged from the Rogue River navigation channel is medium to coarse sand. For the range of depths and grain sizes found at the Rogue ODMDS, there is nearly constant mobilization of bottom sediment due to wave action. This wave-induced motion is not responsible for net transport, but, once in motion, bottom sediments can be affected by other forces such as gravity or directional currents.

The nearshore circulation patterns at Rogue are still unclear. Their complexity is perhaps due to the rocky reefs in the northern part of the Zone of Siting Feasibility (ZSF). The prevailing currents at the depth of the disposal site

seem to be towards the north. Although the Rogue River must deliver a large sediment load, the botton contours suggest a rapid distribution offshore. While there is shoreline accretion 1–2 miles to the north, the shoreline to the south seems to be in equilibrium, suggesting littoral transport to the south is balanced by offshore transport. Disposal of dredged material at the ODMDS does not appear to be a significant contribution to coastal processes.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects)

40 CFR 228.6(a)(7). Due to coarser sediments being deposited on finer ones at the disposal site, theoretically there is a potential for mounding to occur. Bathymetric surveys, however, have shown no signs of such a mound forming from past disposal. Periodic monitoring will continue to evaluate this potential problem.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance, and Other Legitimate Uses of the Ocean

40 CFR 22.6(a)(8). The draft EIS identified no legitimate uses of the ocean that would be interfered with as a result of designation of and ODMDS or its use. The following paragraphs summarize conclusions:

Commercial Fishing: Two existing commercial fisheries occur in the inshore area: salmon trawling and Dungeness crab fishing. The length of the salmon fishing season varies each year depending upon the established quota; however, it normally extends from July to September. During this period, the potential exists for conflicts between the dredge and fishing boats. The Coast Guard and ODFW indicated that they are unaware of any instance where this has ever been a problem. The Dungeness crab season is from 1 December to 15 August; however, most of the fishing is done prior to June and usually ends early because of the increase in unmarketable soft shell crabs in the catch. As a result, most crab fishing is done outside of the normal dredging season and it is unlikely that a conflict would result. There are no commercial fish or shellfish aquaculture operations that would currently be impacted by use of the existing disposal site.

Recreational Fishing: Salmon fishing is done by charter and private boats and occurs in the same areas as the commercial fishing, but generally closer to shore. Bottom fishing is done along the reef areas to the northwest by private charter boat. Recreational fishing boats have a potential for conflict with dredging operations, however, no conflicts have been reported to date. It is unlikely that any significant conflict will develop in the near future.

Offshore Mining Operations: Although offshore deposits of heavy minerals containing magnetite, gold, platinum, chromite, and ilmenite are present offshore, no mining is currently taking place. No oil/gas wells have been drilled off this part of the Oregon Coast and no development is expected in the future. All considerations for offshore mining and oil/gas leases remain in the development stages. Designation and use of the disposal site is not expected to interfere with any of the proposed operations.

Navigation: No conflicts with commercial navigation traffic have been recorded in the more than 60-year history of hoper dredging activity. The probable reason for this is the light commercial traffic at Rogue. Navigation hazards do exist within the ZSF and should be avoided when considering possible disposal site locations. Ships cannot navigate in the northwest part of the ZSF due to the exposed reefs.

Scientific: No scientific studies have been identified within the ZSF that could be adversely effected by the disposal activity.

Coastal Zone Management: Local comprehensive land use plans for the Rogue area have been acknowledged and approved by the State of Oregon. These plans discuss ocean disposal and recognize the need to provide for suitable offshore sites for disposal of dredged materials. In addition, this site evaluation document establishes that no significant effects on ocean, estuarine, or shoreland resources are anticipated, as Goal 19 of the Oregon Statewide Planning Goals and Guidelines requires.

During coordination of the Site Evaluation Report, the Corps made a determination of consistency with Coastal Zone Management plans. EPA also concludes that designation of the proposed site is consistent to the maximum extent practicable with the state coastal management program. A letter of concurrence with that finding was provided by the Oregon Department of Land Conservation and Development, the state coastal zone management office. Their letter of concurrence is included in the draft EIS. The letter notes that the Department may reexamine the consistency issue if new information becomes available.

9. The Existing Water Quality and Ecology of the site as Determined by Available Data or by Trend Assessment of Baseline Survey

40 CFR 28.6(a)(9). Only limited water and sediment quality testing has been done, the details of which are provided in appendix D of the draft EIS. Sediments from the navigation channel are medium to course sands containing some gravel, with some fine sands present at the upper end of the project next to the boat basin. Elutriate testing was conducted in 1981 which showed no release of harmful concentrations of contaminants. These materials are considered to meet the exclusion criteria from further testing as noted in 40 CFR 227.13. Periodic re-evaluation of sediment characteristics by the Corps and EPA occur as part of our management responsibilities.

A general discussion of the ecology of the area based on available information is presented in appendix A of the draft EIS. The ODMDS and near vicinity is typical of a Pacific Northwest mobile sand community, shifting to the reef system to the north. Monitoring studies have not shown any adverse effects from historic disposal.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site

40 CFR 228.6(a)(10). It is highly unlikely that any nuisance species would be transported to the disposal site. Nuisance species are considered to be any undesirable organism not previously existing at the disposal site and either transported or attracted there because of the disposal of dredged materials which are capable of establishing themselves there.

11. Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Features of Historical Importance

40 CFR 228.6(a)(11). The neritic reefs off the Oregon Coast comprise a unique ecological feature. They support a wide variety of invertebrates and fish species, as well as bull whip kelp communities. These areas are sheltered from wave action and receive nutrients from both the ocean and the estuaries and are, thus, usually highly productive. The disposal site is located approximately 1.0 nmi SSE from the reefs. Since the disposal material is a clean sand that settles quickly, any movement of the disposed sand into the reef area would occur through natural littoral transport. Since the disposal quantity is relatively small compared to the longshore transport, disposal at the current site

should not adversely affect the aquatic community in the reef areas.

In spite of the heavy ship traffic supplying the gold fields in the late 1800s, there do not appear to be any shipwrecks of cultural significance that would be affected by continued use of the disposal site. Potential shipwreck area were evaluated in the draft EIS. A letter by the Oregon State Historic Preservation Officer (SHOP) concurs that no significant cultural resources will be affected by the proposed designation and use.

E. Proposed Action

The EIS concluded that the proposed site may be appropriately designated for use. The proposed site is compatible with the general criteria and specific factors used for site evaluation.

The designation of the Rogue as an EPA approved ocean Dumping Site is being published as proposed rulemaking. Management of this site will be delegated to the Regional Administrator of EPA Region 10.

It should be emphasized that, if an ocean dumping site is designated, such a designation does not constitute or imply EPA's approval of actual disposal of material at sea. Before ocean dumping or dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory flexibility Act, EPA is required to perform a Regulatory flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dana A. Rasmussen,

Regional Administrator for Region 10.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing the entry for "Rogue River Entrance" from the Dredged Material Site listing in paragraph (a)(3) and by adding paragraph (b)(92) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(92) Rogue River Entrance-Region 10. location: 42° 24′ 15″ N, 124° 26′ 52″ W; 42° 24′ 23″ N, 124° 26′ 39″ W; 42° 23′ 39″ N, 124° 27′ 17″ W; 42° 23′ 51″ N, 124° 27′ 30″ W.

Size: .14 square nautical miles.

Depth: 18 meters (average).

Primary Use Dredged material.

Period of Use: Continuing use.

Restrictions: Disposal shall be limited to dredged material determined to be suitable for unconfined disposal from the Rogue Estuary and River and adjacent areas.

[FR Doc. 91-22480 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-264, RM-7791]

Radio Broadcasting Services; Bismarck, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Christopher G. Abbott seeking the allotment of Channel 248C to Bismarck, North Dakota, as the community's sixth local commercial FM service. Channel 248C can be allotted to Bismarck in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.4 kilometers (2.1 miles) southeast to avoid a short-spacing to vacant but applied-for Channel 250A at Beulah, North Dakota, at coordinates North Latitude 46-47-35 and West Longitude 100-48-18.

DATES: Comments must be filed on or before November 4, 1991, and reply comments on or before November 19, 1991.

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: Christopher G. Abbott, 1910 Santa Gertrudis Drive, Bismarck, North Dakota 58501 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-264, adopted August 30, 1991, and released September 12, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st 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.

Michael C. Ruger,

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

[FR Doc. 91-22456 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-263, RM-7793]

Radio Broadcasting Services; Los Alamos, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Jeffrey Rochlis seeking the allotment of Channel 298C to Los Alamos, New Mexico, as the community's third local commercial FM service. Channel 298C can be allotted to Los Alamos in compliance with the Commission's minimum distance separation requirements with a site restriction of 38.1 kilometers (23.7 miles) northeast to avoid short-spacings to Stations KMYI, Channel 296C2, Armijo, New Mexico, and Station KAMX-FM, Channel 300C, Albuquerque, New Mexico, at coordinates North Latitude 36-04-51 and West Longitude 105-58-41.

DATES: Comments must be filed on or before November 4, 1991, and reply comments on or before November 19, 1991.

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: Lewis J. Paper, Esq., Paul J. Sinderbrand, Esq., Keck, Mahin & Cate, 1201 New York Avenue, NW., Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-263, adopted August 30, 1991, and released September 12, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st 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.

Michael C. Ruger,

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

[FR Doc. 91-22454 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-265, RM-7795]

Radio Broadcasting Services; Ashland, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Jeffrey Rochlis seeking the allotment of Channel 298C2 to Ashland, Oregon, as the community's second local FM service. Channel 298C2 can be allotted to Ashland in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.3 kilometers (3.3 miles) west to avoid a short-spacing to Station KKRB, Channel 295C1, Klamath Falls, Oregon, at coordinates North Latitude 42-11-48 and West Longitude 122-46-23.

DATES: Comments must be filed on or before November 4, 1991, and reply comments on or before November 19, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lewis J. Paper, Esq., Paul J. Sinderbrand, Esq., Keck, Mahin & Cate, 1201 New York Avenue, NW., Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-265, adopted August 30, 1991, and released September 12, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory 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.

Michael C. Ruger,

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

[FR Doc. 91-22453 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-266, RM-7794]

Radio Broadcasting Services; Redmond, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Jeffrey Rochlis seeking the allotment of Channel 259C3 to Redmond, Oregon, as the community's fourth local FM service. Channel 259C3 can be allotted to Redmond in compliance with the Commission's minimum distance separation requirements with a site restriction of 5 kilometers (3.1 miles) east to avoid a short-spacing to Station KRKT-FM, Channel 260C, Albany, Oregon, at coordinates North Latitude 44-17-14 and West Longitude 121-06-56.

DATES: Comments must be filed on or before November 4, 1991, and reply comments on or before November 19, 1991.

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: Lewis J. Paper, Esq., Paul J. Sinderbrand, Keck, Mahin & Cate, 1201

New York Avenue, NW., Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-266, adopted August 30, 1991, and released September 12, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st 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.

Michael C. Ruger,

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

[FR Doc. 91-22455 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 56, No. 181
Wednesday, September 18, 1991

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

Agricultural Biotechnology Research Advisory Committee; Classification/Confinement Working Group

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. 92-463, 86 Stat. 770-776), the U.S. Department of Agriculture (USDA), Science and Education, announces the following meeting of a working group of the Agricultural Biotechnology Research Advisory Committee (ABRAC).

The Classification/Confinement Working Group will meet in room 704, Rosslyn Plaza East, 1621 N. Kent Street, Arlington, Virginia, 22209, on October 30-31, 1991, from 9 a.m. to 5 p.m. on October 30, and from 9 a.m. to approximately 3 p.m. on October 31, to discuss the classification and confinement of organisms with deliberately modified hereditary traits used in agricultural biotechnology research.

This meeting is open to the public. Persons may participate in the meeting as time and space permit. The public may file written comments before or after the meeting with the contact person below.

Further information may be obtained from Dr. Alvin L. Young, Director, or Dr. Daniel D. Jones, Deputy Director, Office of Agricultural Biotechnology, Cooperative State Research Service, Department of Agriculture, room 1001, Rosslyn Plaza East, 14th Street and Independence Avenue, SW. Washington, DC, 20250. Telephone (703) 235-4419.

Done at Washington, DC, this 6th day of September, 1991.

Charles E. Hess,

Assistant Secretary, Science and Education.

[FR Doc. 91-22495 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-22-M

Agricultural Research Service

Notice of Intent to Grant Exclusive Patent Licenses

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant partially exclusive patent licenses to Seald Sweet Growers, Inc., Vero Beach, Florida, and to J.R. Brooks and Son, Inc., Homestead, Florida, on U.S. Patent Application S. No. 07/679,849, "Increasing Stability of Fruits, Vegetables or Fungi," filed April 3, 1991. Notice of Availability was given on May 22, 1991.

DATES: November 18, 1991.

ADDRESSES: Send comments to: USDA-ARS-Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, room 403, BARC-W, Beltsville, Maryland 20705-2350.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344-2786, (FTS) 344-2786.

SUPPLEMENTARY INFORMATION: The USDA-ARS intends to grant two partially exclusive patent licenses to practice the aforementioned invention. Patent rights to this invention are assigned to the United States of America as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as said companies have submitted complete and sufficient applications for a license, promising therein to bring the benefits of said invention to the U.S. public, and have entered into Cooperative Research and Development Agreement with the Department of Agriculture for furtherance of the commercial use of the said invention.

The prospective partially exclusive patent licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective partially exclusive patent licenses may be granted unless, within sixty days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7, and the intent of 15 USC 3710a.

William H. Tallent,

Assistant Administrator.

[FR Doc. 91-22496 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-03-M

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board and Joint Council on Food and Agricultural Sciences; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board (UAB) and Joint Council (JC) on Food and Agricultural Sciences.

Dates: October 20-23, 1991.

Time: 1 p.m.-6 p.m., October 20, 1991 (UAB only), 8 a.m.-6 p.m., October 21, 1991, 8 a.m.-6 p.m., October 22, 1991, 8 a.m.-12 noon, October 23, 1991 (UAB and JC meet separately).

Places: Sheraton El Conquistador and University of Arizona, Tucson, Arizona.

Type of Meeting: Open to the Public. Persons may participate in the meeting as time and space permit.

Comments: The Public may file written comments before or after the meeting with the contact people below.

Purpose: The UAB and Joint Council will review research and extension programs that are addressing the loss of genetic diversity and endangered species, efficient water utilization, and public land issues. Presentations on plant and insect biotechnology projects and geographic information systems will be made to the UAB.

Contact People for Agenda and More Information: Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board, room 432-A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3684; Mark Bailey, Executive Secretary, Joint Council on Food and Agricultural Sciences, room 302, Aerospace Building, USDA, Washington, DC 20250, telephone (202) 401-4662.

Done in Washington, DC, this 11th day of September, 1991.

John Patrick Jordan,

Administrator.

[FR Doc. 91-22497 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-22-M

Forest Service

Northern Region; Exemption of Salvage Timber Sale Project From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that a salvage timber sale project is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: During January 1989, extensive areas of timber stands along the Continental Divide on the Helena National Forest were severely damaged or killed by a severe drop in temperature which followed several weeks of very mild temperatures. The timber stands severely affected by this event are in need of restoration through salvage of the trees killed or heavily damaged and rehabilitation of the stands through site preparation and prompt regeneration. Further delay in removal of the dead trees will render them unmerchantable as sawtimber, and lack of treatment to the sites will result in unacceptable regeneration lags reducing long-term timber productivity and affect the ability to meet other resource objectives.

The District Ranger has determined, through an environmental analysis documented in the Environmental Assessment for the Proposed Salvage of Winter-Killed Timber in the Upper Telegraph Creek Area, that there is good cause to expedite this project for rehabilitation of National Forest lands and recovery of dead and dying timber subject to rapid deterioration. The environmental analysis also documents extensive public involvement during the analysis and addresses the issues raised by the public.

This is notification that the decision to implement the Upper Telegraph Salvage Timber Sale on the Helena National Forest is exempted from appeal. This conforms with provisions of 36 CFR 217.4(a)(11).

EFFECTIVE DATE: Effective on issuance of the Decision Notice for the Upper Telegraph Winter Killed Timber Salvage.

FOR FURTHER INFORMATION CONTACT: Ernest R. Nunn, Forest Supervisor, Helena National Forest, 301 S. park, Drawer 10014, Federal Building, Room 334, Helena, Montana 59626.

Background

During January of 1989 several weeks of unseasonably warm weather were followed by a severe and rapid drop in temperature which caused "Red-Belt" type conditions and stressed, severely damaged and/or killed the timber on approximately 18,000 acres within the Helena Ranger District. The damage varied from a few trees per acre to blocks of near total mortality. Within the immediate area of the proposed Upper Telegraph Salvage Timber Sale, an estimated 1800 acres were affected to some degree. Over 250 acres were severely damaged and require some type of treatment. Stands showing less than 25 percent of the trees damaged were not considered in need of treatment.

A Forest interdisciplinary team identified the need to quickly salvage the timber before it becomes unmerchantable. Removal of the dead and severely damaged timber will accelerate the rehabilitation of the affected areas by: eliminating the probability of regeneration lags and reduction of future timber yield on lands allocated to timber management; reestablishing wildlife cover more quickly; removing potential impediments to big game; reducing the potential for wildfire in the damaged stands; and providing an opportunity to enhance tree species diversity by planting several species in the treated stands. Current estimates suggest that as much as 25-50 percent of the merchantable volume has already been lost because of the failure to salvage the timber last year. Unless the dead material is salvaged soon, the opportunities to sell the material and initiate long-term site recovery will be foregone due to insect activity and decay.

An Environmental Assessment was prepared during early 1990 which incorporated public involvement received in response to a scoping letter sent to potentially affected parties. (Information from all public involvement is documented in the final Environmental Assessment and associated project file located at the Helena Ranger District, 2001 Poplar, Helena, Montana.) That effort culminated in the signing of Decision Notice on July 26, 1990. District Ranger Hart thereby authorized the salvage of dead and damaged timber from approximately 163 acres of National Forest lands. That decision was appealed on September 6, 1990, by the Helena Forest Conservation Coalition and American Wildlands. Subsequently, District Ranger Hart withdrew his original decision on June 6, 1990, and requested additional analysis of the proposed activities to address issues raised in the appeals.

Four alternatives, evaluated in the revised Environmental Assessment, range from "No Action" to the treatment of 225 acres. Estimates of the volume of timber which could be salvaged range from 1.1 Million Board Feet (MMBF) to 1.8 MMBF.

Planned Actions

The planned project includes recovery of the killed and heavily damaged trees which are still merchantable and rehabilitation of the stands through site preparation and prompt regeneration. The alternative selected for implementation proposes the treatment of 131 acres in 11 individual harvest units recovering 1.1 MMBF of damaged or dead timber. Planting would take place on 85 acres of harvest area to re-establish damaged stands. Site preparation and natural regeneration will be relied upon to re-establish timber stands on the remaining 14 acres. Sanitation cutting on 32 acres will leave residual trees on site for cover and seed sources.

Further delay in removal of the dead trees will render them unmerchantable as sawtimber, and lack of followup treatment to the sites will result in unacceptable regeneration delays affecting long-term timber yields and wildlife use of the area.

Due to the length of time it has taken to develop and acceptable rehabilitation project and salvage program and to properly evaluate its effects, the time remaining for accomplishment has become critical. Any additional delays will result in further damage to presently undamaged resources and could result in a complete loss of the salvageable resources as well.

To expedite this sale project and the initiation of long-term vegetative recovery of the treated stands, the process according to 36 CFR 217.4(a)(11) is being followed. Under this Regulation the following are exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon the environmental analysis documented in the Upper Telegraph Salvage Timber Sale Environmental Assessment and the Helena District Range's Decision Notice for this project, I have determined that

good cause exists to exempt this decision from administrative review.

Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: September 12, 1991.

John M. Hughes,

Deputy Regional Forester, Northern Region.

[FR Doc. 91-22403 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing on Lands Administered by the Ashley and Wasatch-Cache Nationals Forests

AGENCY: Forest Service, USDA, is the lead agency. Bureau of Land Management, USDI, is a cooperating agency.

ACTION: Notice of intent to prepare environmental impact statement (EIS).

SUMMARY: The Forest Service, along with the Bureau of Land Management is a cooperating agency, will prepare an environmental impact statement for oil and gas leasing on lands administered by the Ashley and Wasatch-Cache National Forests. The EIS will be tiered to the current Land and Resource Management Plans and associated Final Environmental Impact Statements.

DATES: Comments concerning the scope of the analysis should be received in writing by October 18, 1991.

ADDRESSES: Send written comments to Susan Giannettino, Forest Supervisor, Wasatch-Cache National Forest, 8230 Federal Building, 125 South State St., Salt Lake City, UT 84138.

FOR FURTHER INFORMATION CONTACT: Barry Burkhardt, Wasatch-Cache National Forest, 8230 Federal Building, 125 South State St., Salt Lake City, UT 84138. Telephone number (801) 524-6333 or (801) 524-5030.

SUPPLEMENTARY INFORMATION: The Forest Service will prepare an EIS for oil and gas leasing on the Evanston and Mountain View Ranger Districts of the Wasatch-Cache National Forest, and a portion of the Flaming Gorge Ranger District of the Ashley National Forest which is not within the Flaming Gorge National Recreation Area. The area is within Summit and Daggitt counties in Utah and Uinta County in Wyoming. The preparation of an EIS is needed to comply with the National Environmental Policy Act in making the decision as to which lands are administratively available for leasing and the leasing decision for specific lands. With the passage of the Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA), the Forest Service was given the authority to object or not object to leasing of National Forest System lands and to prescribe lease stipulations deemed necessary to mitigate potential resource impacts and reduce conflicts with other National Forest uses. The final decision and issuance of leases is the authority of the Bureau of Land Management.

The decisions to be made only involve Federal minerals without the National Forest administrative boundary. Reasonably foreseeable oil and gas activities within the area will provide the basis for the evaluation of environmental consequences. However, approval of any subsequent activities will require additional NEPA analysis at the time they are actually proposed. The EIS and leasing decisions will be appealable under Forest Service Regulations 36 CFR 217.

Issues to be addressed in the EIS will be determined through public scoping. For this purpose, the Forests are requesting written comments. Public meetings will be held in Salt Lake City and Vernal, Utah, and in Evanston, Wyoming. Susan Giannettino, Forest Supervisor of the Wasatch-Cache National Forest and Duane Tucker, Forest Supervisor of the Ashley National Forest are the responsible officials. The Bureau of Land Management has been identified as a cooperating agency. The Forest Service, anticipates release of the draft EIS for public comment in June, 1992, and completion of the final EIS by December, 1992.

The comment period on the draft EIS will be 45 days from the date the notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage but are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider then and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: September 6, 1991.

William Levere,

Deputy Forest Supervisor, Wasatch-Cache National Forest.

[FR Doc. 91-22413 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-11-M

Revised Land and Resource Management Plan for the Caribbean National Forest and Luquillo Experimental Forest; Municipalities of Luquillo, Fajardo, Ceiba, Naguabo, Las Piedras, Canovanas, and Rio Grande, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement for a proposed action to revise the Caribbean National Forest and Luquillo Experimental Forest Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 CFR 219.12.

The agency invites written comments and suggestions within the scope of the analysis. In addition, the agency gives notices that a full environmental analysis and decisionmaking process will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the analysis should be received by November 1, 1991, to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions to: Jose Salinas, Jr., Forest Supervisor; Caribbean National

Forest; Call Box 25000; Rio Piedras, PR; 00928–2500.

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Planning Staff Officer; (809) 766–5335.

SUPPLEMENTARY INFORMATION: The Record of Decision for the current Caribbean National Forest and Luquillo Experimental Forest Land and Resource Management Plan (Forest Plan) was approved on February 10, 1986. That decision was appealed.

While the appeal was pending, the Regional Forester directed the Forest Supervisor to suspend implementation of the commercial timber harvest program set forth in the Forest Plan. He further directed the Forest to prepare a supplement to the final environmental impact statement (FEIS) that would consider the effects of eliminating commercial timber harvest on the Forest, and that would consider timber management demonstration activities, wilderness designation, and other issues that surfaced during the scoping process.

A draft supplemental environmental impact statement (DSEIS) was issued in March 1990. Several respondents to DSEIS stated that they considered it inadequate because it did not consider the effects of Hurricane Hugo, which struck the Forest on September 18, 1989. The DSEIS did not consider the effects of Hugo, because it was already in the process of being printed when the storm struck. In response to this public concern the Forest issued the Hugo supplement to the draft supplement to the FEIS (Hugo Supplement) in March 1991. Public comment period for the Hugo supplement closed July 31, 1991.

Due to the extent of the changes to the Land and Resource Management Plan that have been considered in the supplements, the effects of Hurricane Hugo, and the time that has elapsed during the analysis, the Regional Forester has concluded that this ongoing process of reevaluation of the Plan should be addressed as a revision rather than as an amendment. The Chief of the Forest Service authorized the Forest to revise the Forest Plan on September 6, 1991. This will afford the public the opportunity to comment on a draft EIS and revised proposed Forest Plan as a complete package, and to see how their comments on the supplements were considered in the development of the draft EIS/revised proposed Forest Plan.

The Caribbean National Forest was scheduled to begin review and revision of the Forest Plan in 1993, with the goal of completing the revision process within 10 years of the date of the current Forest Plan (1986). The Forest Service believes it will make better use of the public involvement and reassessment accomplished to date by beginning the revision now.

The following issues will be addressed in the environmental analysis, as well as other significant issues identified during the scoping process: (1) Vegetation management and demonstration; (2) access management; (3) proposed wilderness designation; (4) proposed wild and scenic river designation; (5) effects of Hurricane Hugo; (6) water quality; (7) wildlife; (8) law enforcement; (9) public information and education; (10) recreation; (11) Special Uses; and (12) research.

The scope of the revision is to: (1) Establish forest-wide multiple-use goals and objectives; (2) establish Forest-wide standards and guidelines; (3) delineate management areas and associated management prescriptions; (4) identify lands not suited for timber production; and (5) establish monitoring and evaluation requirements.

Public participation will be especially important at several points during the project analysis process. The first point in the analysis is the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposed action. This input will be utilized in the preparation of the draft environmental impact statement. The scoping process includes: (1) Identifying potential issues, (2) identifying significant issues to be analyzed in depth, (3) eliminating from detailed study insignificant issues or those which have been covered by prior environmental review, (4) exploring additional alternatives, and (5) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics and key contacts, news releases will be used to give the public general notice, and scoping meetings will be conducted. The public will be notified of the time and location of the meetings at some time in the future.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December 1991. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review-process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by June 1992. The responsible official will consider the comments, responses, environmental consquencies discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this revision. The responsible official

will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal in accordance with 36 CFR 217.

The responsible official is John E. Alcock, Regional Forester, Southern Region, 1720 Peachtree Road, NW., Atlanta, Georgia 30367.

Dated: September 11, 1991.

Joe J. Brown,

Acting Regional Forester.

[FR Doc. 91-2241 Filed 1-17-91; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, Caribbean National Forest and Luquillo Experimental Forest, Municipalities of Luquillo, Fajardo, Ceiba, Naguabo, Las Piedras, Canovanas, and Rio Grande, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice; Cancellation of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service has withdrawn its notice of intent to prepare an environmental impact statement to amend the Caribbean National Forest and Luquillo Experimental Forest Land and Resource Management Plan.

The Notices of Intent, published in the **Federal Register** of December 8, 1987; August 11, 1988; and August 21, 1990; are hereby rescinded (52 FR 46515, 53 FR 30324, 55 FR 34039).

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed environmental impact statement cancellation to Ricardo Garcia, Planning Staff Officer, Caribbean National Forest, Call Box 25000, Rio Piedras, PR 00928-2500, phone 809-766-5335.

SUPPLEMENTARY INFORMATION: The Record of Decision for the current Caribbean National Forest and Luquillo Experimental Forest Land and Resource Management Plan (Forest Plan) was approved on February 10, 1986. That decision was appealed.

While the appeal was pending, the Regional Forester directed the Forest Supervisor to suspend implementation of the commercial timber harvest program set forth in the Forest Plan. He further directed the Forest to prepare a supplement to the final environmental impact statement (FEIS) that would consider the effects of eliminating commercial timber harvest on the Forest, and that would consider timber management demonstration activities, wilderness designation, and other issues that surfaced during the scoping process.

A draft supplemental environmental impact statement (DSEIS) was issued in March 1990. Several respondents to the DSEIS stated that they considered it inadequate because it did not consider the effects of Hurricane Hugo, which struck the Forest on September 18, 1989. The DSEIS did not consider the effects of Hugo, because it was already in the process of being printed when the storm struck. In response to this public concern the Forest issued the Hugo Supplement to the draft supplement to the FEIS (Hugo Supplement) in March 1991. Public comment period for the Hugo Supplement closed July 31, 1991.

Due to the broadened scope of the changes to the Land and Resource Management Plan that have been considered in the supplements, the effects of Hurricane Hugo, and the time that has elapsed during the analysis, the Regional Forester has concluded that this ongoing process of reevaluation of the Plan should be addressed as a revision rather than as an amendment. The Chief of the Forest Service authorized the Forest to revise the Forest Plan on September 6, 1991. This will afford the public the opportunity to comment on a draft EIS and revised proposed Forest Plan as a complete package, and to see how their comments on the supplements were considered in the development of the draft EIS/revised proposed Forest Plan.

The Caribbean National Forest was scheduled to begin review and revision of the Forest Plan in 1993, with the goal of completing the revision process within 10 years of the date of the current Forest Plan (1986). The Forest Service believes it will make better use of the public involvement and reassessment accomplished to date by beginning the revision now.

A notice will appear in the **Federal Register** announcing the Notice of Intent to prepare an environmental impact statement for a revision of the Caribbean National Forest and Loquillo Experimental Forest Land and Resource Management Plan.

Dated: September 11, 1991.

Joe J. Brown,

Acting Regional Forester.

[FR Doc. 91-22412 Filed 9-17-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: National Oceanic and Atmospheric Administration.

Title: Species-Specific Seafood Marketing Council Requirements.

Form Number: None; OMB—0648-0215.

Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Burden: 1 respondent; 320 reporting hours; average hours per response—320 hours.

Needs and Uses: This information collection is required by the Fish and Seafood Promotion Act and is necessary to establish and operate seafood marketing councils and for the Secretary to carry out his regulatory responsibilities under the Act. The affected public will be the fishing industry members listed as sector participants on the seafood marketing councils.

Affected Public: Individuals or households, businesses or other for profit, small businesses or organizations.

Frequency: On occasion, semi-annually, annually.

Respondent's Obligation: Required of obtain or retain a benefit.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 13, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-22489 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: National Clearinghouse for Federal Audit Reports.
Form Number(s): SAC-1.
Agency Approval Number: 0607-0518.
Type of Request: Revision of a currently approved collection.
Burden: 300 hours.
Number of Respondents: 3,000.
Avg Hours Per Response: 6 minutes.
Needs and Uses: The Single Audit Act of 1984 (Pub.L. 98-502) requires State and local governments that receive $100,000 or more in Federal financial assistance during their fiscal year to have an annual audit of their financial operations. The OMB has designated the Census Bureau as the central clearinghouse for these audits. We use the Form SAC-1 to follow-up with those governments that have not sent in their audit reports to request that they forward the report or clarify their reporting status.
Affected Public: State or local governments.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 12, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91-22490 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-07-F

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 1992.

Antidumping duty proceedings and firms	Periods to be reviewed
Israel:	
Industrial Phosphoric Acid, A-508-604	
Negev Phosphates; Haifa Chemicals	8/1/90-7/31/91
Italy:	
Tapered Roller Bearings, A-475-603	
Gnutti Bearing Co	8/1/90-7/31/91
Mexico:	
Gray Portland Cement and Clinker, A-201-802	
Cemex S.A.; Apasco S.A. de C.V.	4/12/90-7/31/91
Netherlands:	
Brass Sheet and Strip, A-241-701	
Outokumpu Copper Products B.V.	8/1/90-7/31/91
People's Republic of China:	
Tapered Roller Bearings and Parts Thereof, A-570-601	
The China National Machinery & Equipment Import and Export Corp.; Liaoning Co., Ltd	6/1/90-5/31/91
The China National Machinery & Equipment Import and Export Corporation, Guizhou Branch	
USSR:	
Titanium Sponge, A-461-008	
Techsnabexport	8/1/90-7/31/91
Countervailing Duty Proceedings	
Canada:	
Live Swine, C-122-404	4/1/90-3/31/91
Israel:	
Industrial Phosphoric Acid, C-508-605	1/1/90-12/31/90
Venezuela:	
Electrical Conductor Aluminum Redraw Rod, C-307-702	1/1/90-12/31/90

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and section 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: September 11, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-22491 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-401]

Certain Carbon Steel Products From Sweden; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty Administrative review.

SUMMARY: On April 25, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Sweden for the period January 1, 1987 through December 31, 1987 (56 FR 19091). We have now completed that review and determine the total subsidy to be 2.55 percent *ad valorem*. This rate differs from the preliminary results because we applied the rate of return shortfall methodology to the entire of the original government equity infusions.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Barbara Tillman, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 1991, the Department of Commerce (the Department) published

in the Federal Register (56 FR 19091) the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Sweden (50 FR 41547; October 4, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments from Sweden of cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not pickled, not cut, not pressed and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and of any thickness; whether or not in coils. During the review period, such merchandise was classifiable under item numbers 607.8320, 607.8350, 607.8355 and 607.8360 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 7209.11.0, 72.09.12.00, 7209.13.00, 7209.21.00, 7209.22.0, 7209.23.00, 7209.24.50, 7209.31.00, 7209.32.00, 7209.33.00, 72.09.34.00, 7209.41.00, 7209.43.00, 7209.44.00, 7209.90.00, 7211.30.50, 7211.41.70, and 7211.49.50 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and the following programs: (1) Regional development incentives; (2) reconstruction loans; (3) structural loans; (4) government equity infusions; (5) government acquisition of assets for SSAB; (6) research and development grants; (7) employment promotion grants; (8) government export credits; (9) municipal and county subsidies; and (10) government restructuring program for the specialty steel industry.

Sventsk Stall AB ("SSAB") was the only Swedish exporter of the subject merchandise to the United States during the review period.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioner, interested parties, and the respondent.

Comment 1: The petitioner and other interested parties (herein after the "parties") argue that the partial sales of the government's equity to private investors did not affect the financial condition of SSAB, so the competitive benefit to the company from the original government equity infusion is not decreased by the government's sale of shares in SSAB. The purpose of the countervailing duty law is to offset the competitive benefit enjoyed by subsidized firms, and no justification exists for removing countervailable duties on the products of firms in the event of a change in ownership.

Once the Department has determined that an equity infusion was made to an unequityworthy company on terms inconsistent with commercial considerations, the Department should not make any adjustment when a government sells shares that it holds in that company.

The parties also argue that a distinction exists between the return of a subsidy to the government by a firm and the sale of the government's interest in a company. The mere transfer of ownership, regardless of the flow of money between the buyer and seller, does not eliminate the competitive benefit of the subsidies. Only in the event that a company uses its own assets to repay the subsidy to the government, is the subsidy paid back by the company. In such a case, countervailing duties may be removed because the firm would no longer have the additional capital assets, and thus the competitive benefit.

The parties contend that in Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review (56 FR 19091, 1991), the Department reduced the original equity infusions by a third to reflect the privatization of a third of SSAB, because the reduction in the government's equity claim in SSAB resulted in a corresponding decrease in its claim on SSAB earnings. They argue that the Department's preliminary results do not explain why the equity infusion to SSAB is countervailable when the government holds the rights over the company's future earnings stream and not countervailable when the government holds an equivalent amount in cash as a result of the sale of the equity. Whether the government holds a claim on earnings or its cash equivalent does not alter the benefit the Department already determined was received by SSAB in the form of the earlier equity infusion.

The respondent replies that the parties ignore the economic realities of SSAB's capital structure in 1987 and its revitalization and lessened reliance on governmental infusions. The Department's approach in its preliminary results in this case is a proper recognition of the fact that return on equity may be derived not only from earnings and dividends, but also from an increase in the value of the capital assets devoted to the business.

Department's Position: We agree with the parties that the Swedish government's sale of one-third of its shares in SSAB did not affect the company's financial condition. In our original investigation we determined that SSAB was unequityworthy when it received an equity infusion from the government at the time of its formation in 1978, and again in 1981, when additional equity was required. We preliminarily determined that the reduction in the government's equity claim in SSAB resulted in a corresponding decrease in its claim on SSAB's earnings and reduced the benefit to the company in a corresponding amount.

After further consideration, we determine that the sales of existing shares by the government did not result in a corresponding decrease in the countervailable benefit bestowed by the government's original equity infusions. In 1987, at the time the government sold a third of its shares in SSAB, the amount of equity in the company was not reduced, and the company continued to reap the benefit from the original equity infusions.

Since SSAB continues to benefit from the government's equity infusions, it would not be appropriate to reduce the countervailable benefit by the proportion of the government's sale of its shares in SSAB. Therefore, we have now calculated the benefit from the government equity infusions by multiplying the entire amount of the original infusions by the 1987 rate of return shortfall. The shortfall is the difference between the national average rate of return on equity (8.30 percent) and SSAB's 1987 rate of return on equity. On this basis, the benefit from this program is 0.49 percent *ad valorem*.

Comment 2: The parties argue that privatization does not extinguish past subsidies, because such transactions among shareholders do not affect the company's operating structure. The Department's privatization methodology which focuses on whether the past owner renounces a claim on future earnings as in this case, or the new owner receives a windfall as in Lime from Mexico (54 FR 1753, 1989) is incorrect because the effect of a sale of equity on shareholders is irrelevant to the competitive benefit accorded to products.

Department's Position: We have determined not to reduce the countervailable benefit of the equity infusions because of the government's sale of its shares in SSAB. Therefore, we have applied the rate of return shortfall methodology to the entire amount of the original government equity infusions. See Department's Position on Comment 1.

Comment 3: The parties argue that an equity infusion provided to an unequityworthy company that is wholly owned by the government gives rise to the same competitive benefit stream as a grant, regardless of the financial performance of the company in subsequent years. According to the Department's prevailing countervailing methodology, the government's reduction in its claim on earnings implies a change in the competitive benefit associated with the rate of return shortfall. Nevertheless, the shortfall remains the same regardless of the entity entitled to the income stream.

Department's Position: We disagree with the parties that the entire amount of the government's outright equity infusion in an unequityworthy company should be treated as a grant. The essential difference between an equity infusion and the bestowal of a grant is the expectation of financial return on the equity investment. Because we cannot discount this potential at the time of the infusion, it would be inappropriate for the Department to treat equity infusions as outright grants.

When we determine that a company is unequityworthy, we only determine that the equity provides a potential subsidy. Any actual subsidy is determined on an annual basis through the rate of return shortfall methodology. The treatment of equity infusions as grants, however, implies that the government could expect no return, in terms of dividends, retained earnings, or through increased worth, from its investment.

The rate of return shortfall is a surrogate benchmark that measures the benefit to the unequityworthy company from government equity infusions. If the benefit from the rate of return shortfall in any particular review period exceeds the amount that would be countervailed by treating the equity as a grant, the "grant cap" rule is applied, and we countervail only that amount calculated under the grant methodology. Except for the case where we apply the grant cap, we do not treat equity as an outright grant to the company.

Final Results of Review

As a result of our review, we determine the total subsidy during the period January 1, 1987 through December 31, 1987 to be 2.55 percent *ad valorem*. After reviewing all of the comments received, we have changed the rate from the preliminary results of review because of recalculation of the benefit from the government's equity infusions. The Department will instruct the Customs Service to assess countervailing duties of 2.55 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1987 and on or before December 31, 1987.

Further, the Department will instruct the Customer Service to collect cash deposit of estimated countervailing duties as provided by section 751(a (1) of the Tariff Act of 2.55 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administration review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22 (1990).

Dated: September 10, 1991.

Eric T. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-22492 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-126. Applicant: U.S. Department of Commerce, National Institute of Standards and Technology, Building 222, Room A113, Gaithersburg, MD 20889. *Instrument:* Secondary Ion Microscope and Microprobe, Model IMS-4F. *Manufacturer:* Cameca, France. *Intended Use:* The instrument will be used as an investigative tool in the following research programs:

(1) Compositional profiling of electronic materials—measure elemental depth profiles in electronic materials in support of ion implantation and molecular beam epitaxy programs.

(2) Particle searching and sorting—sort through large numbers of particles dispersed on a substrate so that they may be classified according to the presence of selected elements or isotopes.

(3) Microbeam analysis at submicrometer resolution—study spatial distributions of elements at submicrometer spatial resolution in microelectronic devices and in environmental particles.

Application Received by Commissioner of Customs: August 20, 1991.

Docket Number: 91-127. *Applicant:* University of Southern California, Department of EE/Electrophysics, 920 W. 37th Place, SSC-5-0ZA, Los Angeles, CA 90089-0483. *Instrument:* Epitor Metallorganic Chemical Deposition System. *Manufacturer:* Thomas Swan and Company, United Kingdom, *Intended Use:* The instrument will be used to fabricate photonic materials and devices from III-V compound semiconductors such as gallium arsenide, indium phosphide, aluminum arsenide and their alloys. Many levels of experiments will be conducted that range from studies of the growth of the materials structures required for photonic devices to the development of process monitoring tools for the crystal growth process. New variations of the basic fabrication process will be studied that include the use of lasers to accelerate the fabrication process and to locally control the process for selective area deposition of the photonic materials. *Application Received by Commissioner of Customs:* August 20, 1991.

Docket Number: 91-128. *Applicant:* Rutgers University, New Brunswick, NJ 08903. *Instrument:* Micromanipulators. *Manufacturer:* Narishige Scientific, Japan. *Intended Use:* The instrument will be used to examine the effects of stimulation of presynaptic hair cells in the vestibular system of the marine snail *Hermissenda* on the response of ipsilateral photoreceptors. *Application Received by Commissioner of Customs:* August 27, 1991.

Docket Number: 91-129. *Applicant:* William Marsh Rice University, Department of Geology and Geophysics, P.O. Box 1892, Houston, TX 77865. *Instrument:* Electron Microprobe, Model

CAMEBAX, SX50. *Manufacturer:* Cameca, France. *Intended Use:* The instrument will be used for studies of minerals, rocks, metorites, glasses, synthetic phases, metals, tissue samples. The experiments to be conducted will involve measurement of x-ray intensity, backscattered and secondary electrons and cathodoluminescence emitted by samples when bombarded by a focussed electron beam. The data obtained with this instrument form the basis for studying the origin of the rocks and minerals in volcanic fields, metamorphic terrains, sedimentary formations, ore deposits and meteorites. The instrument will also be used to determine the composition of various synthetic materials to determine the conditions necessary for their formation and to correlate their chemical composition and phase distribution with physical properties. *Application Received by Commissioner of Customs:* August 27, 1991.

Docket Number: 91-132. *Applicant:* National Institute of Standards and Technology, 221/A167, Gaithersburg, MD 20899. *Instrument:* Electron Beam Ion Trap. *Manufacturer:* Oxford University, United Kingdom. *Intended Use:* The instrument will be used to study photon emission spectra from highly charged atomic ions throughout the periodic table. The objectives of the investigation will be to extract fundamental information concerning quantum electrodynamic and relativistic contributions to the atomic energy levels and to study collision processes. *Application Received by Commissioner of Customs:* August 30, 1991.

Docket Number: 91-134. *Applicant:* Veterans Administration Medical Center, 50 Irving Street NW., Washington, DC 20422. *Instrument:* Electron Microscope, Model CM 10. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used to examine electron microscopically biopsy tissue specimens from living veterans patients and study the correlation of morphology with specific diseases in these patients. The instrument will also be used for training pathology residents in electron microscope techniques. *Application Received by Commissioner of Customs:* September 4, 1991.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-22493 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-DS-M

International Oceanic and Atmospheric Administration; 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 am and 5 pm in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-059. *Applicant:* NOAA/PMEL/MSRD, 7600 Sandy Point Way, N.E., Seattle, WA 98115. *Instrument:* Drifters Argos. *Manufacturer:* Siemac Ltd., Canada. *Intended Use:* See notice at 56 FR 23287, May 21, 1991.

Comments: None received. *Decision:* Denied. *Reasons:* The applicant solicited bids for the instrumentation via an advertisement in the Commerce Business Daily on November 14, 1990. Bids from two domestic manufacturers were determined to be technically non-responsive to specifications and rejected in accordance with Federal Acquisition Regulation 14.404-2(d). In a memorandum titled "Determination and Findings Award Other Than the Apparent Low Bidder" and dated February 20, 1991, the applicant states that:

> It is recommended that award be made to the third low bidder, Siemac, Ltd., who meets all bid requirements and has a fair and reasonable bid price of $109,493.24. The fourth low bid, DSI, meets all requirements but is $110,234.76 higher.

(Emphasis supplied; DSI is a U.S. manufacturer.)

Pursuant to 15 CFR part 301.2(s):

> "Pertinent" specifications are those specifications necessary for the accomplishment of the specific scientific research and/or science-related educational purposes described by the applicant. Specifications or features (even if guaranteed) which afford greater convenience, satisfy personal preferences, accommodate institutional commitments or limitations, or assure lower costs of acquisition, installation, operation, servicing, or maintenance are not pertinent.

Furthermore, 15 CFR 301.5(e)(7) provides, in part, as follows:

> Information provided in a resubmission that * * * contradicts or conflicts with information provided in a prior submission, shall not be considered in making the decision on an application that has been resubmitted. Accordingly, an applicant may elect to reinforce an original submission by elaborating in the resubmission on the description of the purposes contained in a prior submission and may supply additional examples, documentation and/or other clarifying detail, *but the applicant shall not introduce new purposes or other material changes* in the nature of the original application. (Emphasis supplied).

Consequently, in view of the applicant's own determination, cited above, that the bid tendered by DSI "meets all requirements" (short of price, which cannot be considered under the law), we conclude that a resubmission cannot establish, without introducing impermissible new purposes, that a scientifically equivalent domestic instrument is not available.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-22494 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Modification; Salvatore Cerchio (P36B)

Notice is hereby given that Mr. Salvatore Cerchio has requested a modification of Permit No. 663 issued on February 21, 1989 (as amended) (54 FR 8231), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 663, as amended, authorizes the incidental harassment of up to 500 humpback whales (*Megaptera novaeangliae*) while conducting photographic activities and recording of singers in Hawaii. The Holder requests an increase of 100 animals to be taken during each of the next 2 years. The Holder reports that during the 1991 season between 421 and 474 animals were approached and since the take came to within 25 approaches of the set limit, the Holder felt the increase of 100 (total 600) was necessary.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application

would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices: By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301/427-2289); Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415 (213/514-6196); and Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822-2396 (808/944-8831).

Dated: September 12, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-22467 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Mammals; Application for Permit; NMFS, Alaska Fisheries Science Center, National Marine Mammal Laboratory (P77#56)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Applicant: Director, Alaska Fisheries Science Center and Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE.; Seattle, WA 98115.

Type of Permit: Scientific research.

Name and Number of Marine Mammals Taken Annually and Type of Take:

Crabeater seal (*Lobodon carcinophagus*)	
—capture/tag/handle/release up to 3 times/yr	100
—capture/instrument/tag/handle/release up to 5 times/yr	100
Leopard seal (*Hydrurga leptonyx*)	
—capture/tag/handle/release up to 3 times/yr	100
—capture/instrument/tag/handle/release up to 5 times/yr	100
Weddell seal (*Leptonychotes weddelli*)	
—capture/tag/handle/release up to 3 times/yr	100
—capture/instrument/tag/handle/release up to 5 times/yr	100
Ross seal (*Ommataphoca rossi*)	
—capture/tag/handle/release up to 3 times/yr	50
—capture/instrument/tag/handle/release up to 5 times/yr	50
Southern elephant seal (*Mirounga leonina*)	
—capture/tag/handle/release up to 3 times/yr	100
—capture/instrument/tag/handle/release up to 5 times/yr	100
Antarctic fur seal (*Arctocephalus gazella*)	
—capture/tag/handle/release up to 3 times/yr	1000
—capture/instrument/tag/handle/release up to 5 times/yr	100

The applicants request permission to take crabeater, leopard, Weddell, Ross, southern elephant, and Antarctic fur seals by incidental harassment associated with the types of take specified above and associated with surveys for abundance and distribution of pinnipeds and seabirds.

For southern elephant seals and Antarctic fur seals, the maximum numbers taken annually by harassment is 3,000 and 40,000 respectively. For crabeater, leopard, Weddell, and Ross seals the maximum numbers to be taken by harassment during surveys for Antarctic fur seal and southern elephant seal abundance is 500 for each species. These numbers are based on the size of the populations in the Antarctic Peninsula region rather than probable levels of take. Efforts will be made to avoid or minimize such incidental disturbance whenever possible.

Additionally, the applicants request permission to import into the United States all biological specimens taken from the species listed above (e.g., blood samples, vaginal smears) or obtained from dead seals (e.g., skeletal material). Also, authority is requested to import biological specimens from the pinniped species described provided by collaborating investigators in Argentina, Australia, Brazil, Canada, Chile, Finland, France, Germany, India, Italy, Japan, New Zealand, Norway, Poland, South Africa, South Korea, Spain, Sweden, United Kingdom, and the USSR.

The objectives are to (a) study the reproductive success, condition and growth, foraging ecology and demography of Antarctic fur seals; (b) survey Antarctic fur seal and southern elephant seal rookeries and haulout areas; (c) investigate the feeding and reproductive ecology of pack ice seals; (d) refine estimates of population size for pack ice seals (crabeater, leopard, Ross); (e) evaluate the daily and seasonal movements and stock separation of pack ice seals; and (f) investigate the functional relationships among Antarctic pinnipeds, their prey, and their environment.

Location and Duration of Activity: Taking may occur anywhere within the circumpolar geographic range of each species. Due to logistic uncertainties, specific dates and locations are unknown. However, most taking will occur during September to April in the Antarctic Peninsula, South Shetland Islands, Weddell Sea and Amundson/Bellingshausen Seas. Individuals will be released at the same general site where they were captured. The duration of the permit request is 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. the holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301) 427-2289;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE BIN C15700, Seattle, Washington 98115 (206/526-6150).

Dated: September 11, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-22475 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Petition for Rulemaking; State of Alaska, Department of Fish and Game

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of petition for rulemaking and request for comments.

SUMMARY: NOAA announces receipt of a petition for rulemaking on issues related to fishery management regulations under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The State of Alaska, Department of Fish and Game, has petitioned the Secretary of Commerce (Secretary) to reinstate the Federal regulations requiring completion of Alaska Department of Fish and Game fish tickets, and to specifically require accurate reporting of exvessel prices for federally managed fisheries.

DATES: Comments are requested through November 4, 1991.

ADDRESSES: Comments on the need for this rulemaking described in the petition should be sent to William W. Fox, Jr., Assistant Administrator for Fisheries, NOAA, NMFS, Silver Spring Metro Center #1, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Copies of the petition are available and may be obtained from Lauren M. Rogerson, NOAA Office of the General Counsel, Silver Spring Metro Center #1, room 9246, 1335 East-West Highway, Silver Spring, MD 20910, telephone (301) 427-2231.

SUPPLEMENTARY INFORMATION:

Description of Request

The State of Alaska, Department of Fish and Game, has petitioned the Secretary to:

(1) Reinstate Federal regulations that require completion of Alaska Department of Fish and Game fish tickets for federally-managed fisheries off Alaska; and

(2) Specifically require accurate reporting of exvessel prices on the Alaska Department of Fish and Game fish tickets.

Information Requested

NMFS requests interested persons to submit comments, information, and suggestions concerning the structure and content of regulations necessary to implement the request. NMFS will consider this information in determining whether to proceed with the development of regulations suggested by the petition. Upon determining whether to open the rulemaking suggested by this petition, the Assistant Administrator for Fisheries will publish a notice of NMFS' decision or action in the **Federal Register**.

Dated: September 12, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-22464 Filed 9-17-91; 8:45 am]

BILLING CODE 3510-22-M

COMPETITIVENESS POLICY COUNCIL

Meeting

ACTION: Notice of forthcoming meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the Competitiveness Policy Council announces several forthcoming meetings.

DATES: October 11, 1991, November 8, 1991, December 12, 1991, January 7, 1992 and February 7, 1992, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Eighth Floor Conference Center, 11 Dupont Circle, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Howard Rosen, Sixth Floor, 11 Dupont Circle, NW., Washington, DC 20036, (202) 328-0583.

SUPPLEMENTARY INFORMATION: The Competitiveness Policy Council (CPC) was established by the Competitiveness Policy Council Act, as contained in the Trade and Competitiveness Act of 1988, Public Law 100-418, sections 5201-5210, as amended by the Customs and Trade Act of 1990, Public Law 101-382, section 133. The CPC is composed of 12 members and is to advise the President and Congress on matters concerning the competitiveness of the US economy. The Council will hold in-depth discussions of topics identified at its September 6 meeting as being critical to improving US competitiveness. The Council's chairman, Dr. C. Fred Bergsten, will chair each meeting.

Each meeting will be open to the public subject to the seating capacity of the room. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda: The Chairman will open each meeting with a report on developments related to the activities of the Council. This report will be followed by a discussion of issues identified at the September 6 meeting as being most critical to improving US competitiveness. The issues include: (1) basic education, vocational training and retraining, (2) capital formation, public and private savings and investment, (3) corporate governance and investment time horizons, (4) health care costs, (5) technology and (6) international trade.

Dated: September 12, 1991.

C. Fred Bergsten,

Chairman, Competitiveness Policy Council.

[FR Doc. 91-22433 Filed 9-17-91; 8:45 am]

BILLING CODE 6820-11-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 1730-1930, Tuesday and Wednesday, 8-9 October 1991 and 1330-1600 on 10 October 1991.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: September 12, 1991.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-22377 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, October 3, 1991.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: September 12, 1991.

Patricia H. Means,

OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 91-22378 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0800, Friday, 11 October 1991.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: September 12, 1991.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-22379 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

DOE Field Office, Chicago; Award Based on Acceptance of an Unsolicited Application; American Council for an Energy-Efficient Economy

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Field Office, Chicago through the Solar Energy Research Institute Area Office (SAO), announces that, pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), DOE intends to award a grant to the American Council for an Energy Efficient Economy for the promotion of U.S. Energy Efficient Window Technologies in Poland and Czechoslovakia. The anticipated overall objective is to facilitate the adoption of energy efficient window technologies in Poland and Czechoslovakia, by promoting U.S. industry.

SUPPLEMENTARY INFORMATION: The American Council for an Energy-Efficient Economy (ACEEE) is an educational and research organization dedicated to the promotion of technologies, policies, and programs that improve energy efficiency. It has been extensively involved in efforts to improve building energy efficiency in the United States, including efforts to encourage wider use of advanced window technologies that reduce building energy use. ACEEE has worked closely with the window industry and interested government officials during the last two years in establishing the National Fenestration Rating Council and its programs. Additionally, this award will further the objectives of the Committee on Renewable Energy Commerce and Trade (CORECT) to market U.S. renewable energy technologies. Therefore, the grant application is being accepted because DOE knows of no other organization that is conducting or planning to conduct this type of effort in promoting U.S. window and glass technologies.

The project period for the grant award is 18-months, expected to begin in September 1991. DOE plans to provide funding in the amount of $50,000 for this project period.

FOR FURTHER INFORMATION CONTACT: Patricia Russo Schassburger, U.S. Department of Energy, SERI Area Office, 1617 Cole Boulevard, Golden, CO 80401. (303) 231-1495.

Issued in Chicago, Illinois on September 11, 1991.

Gordon F. Giarrante,

Acting Deputy Assistant Manager for Administration.

[FR Doc. 91-22471 Filed 9-17-91; 8:45 am]

BILLING CODE 6450-01-M

Noncompetitive Financial Assistance Awards

AGENCY: Albuquerque Field Office, Department of Energy.

ACTION: Notice of noncompetitive financial assistance applications for grants to six New Mexico State Department of Education public school districts.

SUMMARY: The Department of Energy (DOE) Field Office, Albuquerque (AL), based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(A), (C), and (D), gives notice of its plans to award Extended Education Program Grants to the Belen Consolidated School District, the Santa Rosa Consolidated Schools, the Lordsburg Municipal Schools, the Zuni Public School District, the Chama Valley Independent Schools, and the Albuquerque Public Schools' Washington Middle School. The purpose to be served by these awards is to assist in the critical need for the development of human resources to meet the needs of the Department's environmental challenges by aggressively pursuing the environmental management educational initiatives for providing near or long term manpower requirements through university curriculum development and secondary school outreach programs. The particular significance of the activities to be funded is the enhancement of science education for educationally disadvantaged students. It is anticipated that the grants will be funded annually for a total project period of two years. The estimated cost of the programs for the first year is $26,500 per school district with a total cost of $159,000. The distribution and availability of funds is subject to budget limitations.

FOR FURTHER INFORMATION: William L. McCullough, U.S. Department of Energy Field Office, Albuquerque, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185, telephone (505) 845-6442 or FTS 845-6442.

Issued in Albuquerque, NM September 9, 1991.

Richard A. Maquez,

Assistant Manager for Management and Administration.

[FR Doc. 91-22472 Filed 9-17-91; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Thursday, September 26, 1991, at the Westin Hotel, 320—4 Avenue SW., Calgary, Alberta, Canada, beginning at 8 a.m. The agenda for the meeting is as follows:

1. Adoption of agenda.
2. Approval of Record Note of the IAB meeting of May 17, 1991.
3. Current situation of IEA countries with respect to emergency preparedness.
4. Review of the final version of the report by the IEA Secretariat on the Persian Gulf Crisis of 1990/91, the IEA response and lessons for IEA emergency preparedness.
5. Suggestions by the U.S. and other IA administrations for improvements in IEA emergency mechanisms.
6. Future work program:
   a. Working Groups on Questionnaire A/Questionnaire B reporting instructions and updating the Emergency Management Manual; and
   b. Preparations for Allocation Systems Test Number 7.
7. IAB organization.
8. Date of next IAB meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting is open only to representatives of members of the IAB, their counsel, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the Commission of the European Communities, and invitees of the IAB or the IEA.

Issued in Washington, DC, September 12, 1991.

John J. Easton, Jr.,

Acting General Counsel.

[FR Doc. 91-22473 Filed 9-17-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF89-111-001, et al.]

Oxbow Power of North Tonawanda, NY, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 10, 1991.

Take notice that the following filings have been made with the Commission:

1. Oxbow Power of North Tonawanda, New York, Inc.

[Docket No. QF89-111-001]

On September 5, 1991, Oxbow Power of North Tonawanda, New York, Inc., tendered for filing an amendment to its filing in this docket.

The amendment supplements certain aspects of the facility's ownership structure.

Comment date: October 2, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Co.

[Docket No. ER91-628-000]

Take notice that on September 5, 1991, Pacific Gas and Electric Company (PG&E) tendered for filing a rate schedule, which enables PG&E and the Los Angeles Department of Water and Power (LADWP) to engage in short-term transactions, including purchases, sales, or exchanges of surplus energy, capacity and transmission services. Services are to be provided under this rate schedule at prices not to exceed certain cost-based prices specified in the Rate Exhibit of the rate schedule. In addition, PG&E has requested waivers to allow an effective date of August 1, 1991.

Copies of this filing were served upon LADWP and the California Public Utilities Commission.

Comment date: September 24, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Arizona Public Service Co.

[Docket No. ER91-630-000]

Take notice that on September 5, 1991, Arizona Public Service Company ("APS") tendered for filing a revised exhibit A to the Wholesale Power Supply Agreement ("Agreement") between APS and the United States of America, Bureau of Indian Affairs on Behalf of the Colorado River Indian Irrigation Project ("CRIIP") (APS-FPC Rate Schedule No. 65). Exhibit A lists annual Contract Demands applicable under the Agreement.

No change from the currently effective rate or revenue levels for the period June 1, 1991 through May 31, 1992 is proposed herein.

No new facilities are required to provide this service.

A copy of this filing has been served on CRIIP and the Arizona Corporation Commission.

Comment date: September 24, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp Electric Operations

[Docket No. ER91-471-000]

Taken notice that PacifiCorp Electric Operations ("PacifiCorp"), on September 3, 1991, tendered for filing, in accordance with the Commission's Order dated August 2, 1991 and Index of Purchasers under PacifiCorp's FERC Electric Tariff, Original Volume No. 5, rate sheets applicable to non-tariff customers, Statement BG Revision 1, Statement BH Revision 1 and supplemental testimony and exhibits providing PacifiCorp's phase-in plan for transmission service.

Copies of this filing were supplied to all parties hereto and to all state regulatory agencies having jurisdiction over the parties.

Comment date: September 24, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. The United Illuminating Co.

[Docket No. ER91-626-000]

Take notice that on September 4, 1991, The United Illuminating Company (UI) tendered for filing rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Boston Edison Company (Boston Edison). The sales are pursuant to agreements under which service commenced at various dates in 1988 and 1990, as set forth below, and terminated at various dates in 1988 and 1990, also as set forth below. UI proposes that the rate schedules commence and terminate on those same dates and, by its September 4, 1991 filing, given notice of termination. The agreements are as follows:

Date of agreement	Effective date	Termination date
Jan. 11, 1988	Jan. 12, 1988	June 30, 1988
March 3, 1988	March 7, 1988	June 30, 1988.
May 16, 1988	May 16, 1988	June 30, 1988.
August 30, 1988.	Sept. 1, 1988	Sept. 30, 1988
Feb. 22, 1990	March 10, 1990	April 30, 1990.
March 18, 1988	May 1, 1988	Oct. 31, 1988
April 26, 1988	May 1, 1988	June 30, 1988.
May 13, 1988	May 1, 1988	Oct. 31, 1988.
June 16, 1988	July 1, 1988	Sept. 30, 1988.
July 26, 1988	May 1, 1988	Oct. 31, 1988.

The services under the agreements are the provision of capacity and associated energy and transmission from UI's Bridgeport Harbor Station Units 1 and 2 (oil-fired generating units) and New Haven Harbor Station 1 (an oil and gas-fired generating unit), and from system gas turbine capacity previously obtained by UI from Northeast Utilities.

Copies of the filing were served upon Boston Edison and on the Massachusetts Department of Public Utilities.

Comment date: September 24, 1991 in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Co. of New York, Inc.

[Docket No. ER91-610-000]

Take notice that on September 5, 1991, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing Supplements to its Rate Schedules FERC Nos. 60, 66 and 78, agreements to provide transmission service for the Power Authority of the State of New York (the "Authority"). The Supplements provide for a decrease in the monthly transmission charge from $1.15 to $1.07 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, Grumman Corporation and the municipal distribution agencies of Nassau and Suffolk Counties, thus decreasing annual revenues under the Rate Schedules by a total of $38,383,200. Con Edison has requested waiver of notice requirements so that the decreases can be made effective as of July 1, 1991.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: September 24, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22396 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2981-000, et al.]

Panhandle Eastern Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

Docket Nos. CP91-2981-000, CP91-2982-000, CP91-2983-000, and CP91-2984-000]

September 9, 1991.

Take notice that Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: October 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual dt	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2981-000 (9-4-91)	Central Illinois Public Service (Idc).	15,000 15,000 4,475,000	IL	MI	7-16-91, PT Interruptible.	ST91-100048, 7-23-91
CP91-2982-000 (9-4-91)	City of Monroe City, Missouri (Idc).	2,600 2,600 949,000	KS, CO, OK, TX	MO	4-1-91, SCT, Firm	ST91-9747 7-1-91

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual dt	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2983-000 (9-4-91)	Village of Westville, Illinois (ldc).	2,500 2,500 912,500	KS, CO, OK, TX	IL	4-1-89, SCT, Firm	ST91-9743, 7-1-91
CP91-2984-000 (9-4-91)	Polaris Pipeline Corporation (marketer).	50,000 50,000 18,250,000	Multiple	IN	2-8-91, PT, Interruptible.	ST91-10049, 7-1-91

2. Natural Gas Pipeline Co. of America

Docket No. CP91-2952-000, CP91-2953-000, CP91-2954-000, CP91-2955-000, and CP91-2956-000]

September 9, 1991.

Take notice that on September 3, 1991, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transaction service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Natural and is summarized in the attached appendix.

Comment date: October 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2952-000 (9-3-91)	Olympic Fuels Company (marketer).	50,000 20,000 7,300,000	Various	LA, TX, IA, OK, Off. TX, Off. LA, CO, IL.	2-13-91, ITS, Interruptible.	ST91-9832-000, 7-1-91.
CP91-2953-000 (9-3-91)	Shell Gas Trading Company (marketer).	25,000 25,000 9,125,000	TX	LA	7-1-91, FTS, Firm	ST91-10083-000, 7-1-91.
CP91-2954-000 (9-3-91)	North American Resources Company (producer).	10,000 3,000 1,277,500	Various	OK, IL, LA, TX, NM, IA, KS, NE.	7-5-91, ITS, Interruptible.	ST91-9870-000, 7-3-91.
CP91-2955-000 (9-3-91)	Coastal Gas Marketing Company (marketer).	50,000 20,000 7,300,000	Various	TX, IA, OK, CO, LA, NM, IL, KS.	6-25-91, ITS, Interruptible.	ST91-9869-000, 7-3-91.
CP91-2956-000 (9-3-91)	Vesta Energy Company (marketer).	150,000 50,000 18,250,000	Various	TX, IL, MO, IA, OK, CO, LA, NM.	3-19-91, ITS, Interruptible.	ST91-9940-000, 7-11-91.

3. Questar Pipeline Co.

[Docket No. CP91-2980-000]

September 10, 1991.

Take notice that on September 4, 1991, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP91-2980-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations and Questar's blanket certificates issued in Docket Nos. CP82-491-000 and CP88-650-000 pursuant to section 7 of the Natural Gas Act for authorization to (1) operate an existing 6-inch tap on Questar's Jurisdictional Lateral (J.L.) No. 81 as a transportation delivery point for providing fuel gas to certain compressor facilities owned by Chevron U.S.A. Inc. (Chevron) in the East Painter Field in Uinta County, Wyoming and (2) to use that delivery point to continue to provide interruptible transportation service to Chevron pursuant to 18 CFR 284.223, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar proposes to operate an existing 6-inch tap on its J.L. No. 81, which was previously used to receive fuel reimbursement volumes from Chevron for Questar's system supply, as a point of delivery of an estimated 3,500 MMBtu on an average day and 1,277,500 MMBtu annually of gas transported by Questar for Chevron under an existing transportation service agreement.

Questar states that even though it does not need to install a new tap on J.L. No. 81 to deliver transported volumes to Chevron, certain minor metering facility modifications must be made. Questar explains that the construction activities related to the new delivery point include replacing an existing 6-inch meter run with a 3-inch meter run and associated valves and piping at the new East Painter district regulator station on J.L. No. 81. Questar explains that the 3-inch meter run will be installed in accordance with the provisions of 18 CFR 157.208(a) and that Chevron will pay the estimated $15,275 of costs associated with Questar's construction activities. The new facilities will enable Questar to deliver fuel gas to Chevron for use at its East Painter compressor facility. Questar estimates that it will deliver up to 3,500 MMBtu on a peak day to Chevron.

Questar explains further that the transportation service at the new delivery point will be provided on an

interruptible basis in accordance with the December 10, 1987 Transportation Service Agreement, as amended August 30, 1991, between it and Chevron and under Rate Schedule T-2 of Questar's FERC Gas Tariff, Original Volume No. 1-A. Questar states it will not be required to deliver gas to Chevron at the new East Painter delivery point if doing so would create a detriment or disadvantage to its existing firm customers. Questar states that its FERC Gas Tariff does not prohibit the addition of new delivery points.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Chevron U.S.A. Inc., et al.

[Docket No. CI62-765-001,[3] et al.]

September 10, 1991.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Comment date: September 26, 1991, in accordance with Standard Paragraph J at the end of the notice.

[3] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI62-765-001, D, 8-14-91	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253-3725.	Texaco Exploration and Production, Inc., Enville S.W. Field, Love County, Oklahoma.	Assigned 7-1-90 and 8-1-90 to Reiner Klawiter and Kingswell Oil and Gas Corp., respectively.
CI62-1412-012, D, 8-16-91	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	Assigned 12-1-84 to Timberwolf Energy Company.
CI62-1412-013, D, 8-16-91	Oryx Energy Company	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	Assigned 9-1-86 to Bill Bowers.
CI62-1412-014, D, 8-28-91	Oryx Energy Company	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	Assigned 1-1-84 to Spess Oil Company.
CI73-494-001; D, 8-15-91	Columbia Gas Development Corporation, One Riverway, P.O. Box 1350, Houston, TX 77251-1350.	Columbia Gas Transmission Corporation, Block 314, Eugene Island Area, South Addition, Offshore Louisiana.	Assigned 1-30-84 to Texas Gas Exploration Corporation.
CI91-116-000 (G-17454), D, 8-14-91.	Chevron U.S.A. Inc.	Phillips 66 Natural Gas Company, Panhandle-Gray Field, Gray County, Texas.	Assigned 5-1-91 to Bergman Oil & Gas Company.
CI91-117-000 (G-18241), D, 8-14-91.	Chevron U.S.A. Inc.	West Lake Natural Gas Company and ARCO Oil and Gas Company, a division of Atlantic Richfield Company, Nena Lucia Field, Nolan County, Texas.	Assigned 1-1-90 to Sun Operating Limited Partnership.
CI91-120-000 (CI62-833), D, 8-19-91.	Chevron U.S.A. Inc.	Lone Star Gas Company, Durant East Field, Bryan County, Oklahoma.	Assigned 8-1-90 to Shelro Petroleum Corporation and Kaiser-Francis Oil Company.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession

5. Western Gas Interstate Co.

[Docket No. CP91-2890-000]

September 10, 1991.

Take notice that on August 26, 1991, Western Gas Interstate Company (Western Gas), 9130 Jollyville Road, suite 150, Austin, Texas 78759, filed in Docket No. CP91-2890-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of facilities owned by Southern Union Gas Company (Southern Union) and authority to construct and operate certain metering and regulating facilities in connection with the acquisition of Southern Union's facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The facilities that Western Gas[4] proposes to acquire and operate is Southern Union's Judd Line. The Judd Line is approximately 19.5 miles in length and consists of approximately twelve miles of three-inch diameter line and seven and one-half miles of four-inch diameter pipeline. The Judd Line runs from the interconnection with Western Gas' East Line at a metering station in Texhoma, Texas and extends in a westerly direction to the interconnection between Western Gas and Colorado Interstate Gas Company (CIG) at section 3, Block-1 PSL, Sherman County, Texas. Western Gas operates a tap at the interconnection of the Judd Line and CIG, with Western Gas making deliverers of natural gas to Southern Union at the outlet side of the tap.

Western Gas alleges that the acquisition of Southern Union's facilities would form an extension of and become part of it's jurisdictional East Line, thereby permitting Western Gas to provide greater overall flexibility on it's East Line. This proposal would permit Western Gas to obtain gas from CIG at the Sherman County interconnect and transport gas east along its extended East Line. The acquisition would allow Western Gas to move gas supplies through it's extended interstate system from the Sherman County, Texas interconnection with CIG in Beaver, Oklahoma, thereby improving flexibility of both sales and transportation services for current and future customers on the system. Western Gas states that it entered into a Bill of Sale with Southern Union dated March 7, 1991, for Western Gas to acquire the Judd Line facilities.

Western Gas states that the cost of constructing the proposed metering and regulating facilities, including general overhead and contingency is estimated to be $26,321. Western Gas further states that the cost to purchase Southern Union's facilities is estimated to $126,133. Therefore, the total project cost to construct and acquire the facilities is estimated to be $152,454. Western Gas contends that it would finance the cost

[4] Western Gas owns and operates two separate divisions (the Northern and Southern Divisions) providing natural gas service in Texas, Oklahoma, and New Mexico. Western Gas is authorized to render sales for resale service and transportation service for it's distribution affiliate Southern Union on it's Northern Division.

of the facilities through the use of internally generated funds.

Comment date: October 1, 1991, in accordance with Standard Paragraph F at the end of this notice.

6. Panhandle Eastern Pipe Line

[Docket Nos. CP91-2985-000, CP91-2986-000, CP91-2987-000, and CP91-2988-000]

September 10, 1991.

Take notice that Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

[5] These prior notice requests are not consolidated.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day average day, annual dt	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2985-000 (9-4-91)	City of Macon, Missouri (idc).	5,000 5,000 1,825,000	KS, TX, OK	MO	4-1-89, SCT, Firm	ST91-9741, 7-1-91.
CP91-2986-000 (9-4-91)	City of Hermann, Missouri (idc).	3,100 3,100 1,131,500	KS, TX, OK	MO	4-1-89, SCT, Firm	ST91-9836, 7-1-91.
CP91-2987-000 (9-4-91)	Seiling Public Works Authority, Oklahoma (idc).	400 400 146,000	KS, TX, OK	OK	4-1-89, SCT, Firm	ST91-9739, 7-1-91.
CP91-2988-000 (9-4-91)	City of Fulton, Missouri (idc).	8,200 8,200 2,993,000	KS, TX, OK	MO	4-1-89, SCT, Firm	ST91-9742, 7-1-91.

Trunkline Gas Co., Trunkline Gas Co., Trunkline Gas Co., and Panhandle Eastern Pipe Line Co.

[Docket Nos. CP91-2968-000, CP91-2969-000, CP91-2970-000, and CP91-2971-000]

September 10, 1991.

Take notice that on September 3, 1991, Trunkline Gas Company, P.O. Box 1642, Houston, Texas, 77251-1642, and Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP86-586-000 and Docket No. CP86-585-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[6]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

[6] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points	Delivery points	Contract date rate schedule, service type	Related docket start up date
CP91-2968-000 (9-3-91)	Transco Energy Marketing Company (marketer).	10,000 10,000 3,650,000	Various	LA	5-3-90, PT, Interruptible.	ST91-9777-000, 7-1-91.
CP91-2969-000 (9-3-91)	Enron Gas Marketing, Inc. (marketer).	100,000 100,000 36,500,000	Various	OH	3-21-91, PT, Interruptible.	ST91-9774-000, 7-1-91.
CP91-2970-000 (9-3-91)	Centran Corporation (marketer).	30,000 30,000 10,950,000	Various	IN	10-15-90, PT, Interruptible.	ST91-9913-000, 7-25-91.
CP91-2971-000 (9-3-91)	Town of Taloga, Oklahoma (local distribution company).	166 Dth 166 Dth 60,590 Dth [1]	Various	OK	4-1-89, SCT, Firm	ST91-9748-000, 7-1-91.

[1] Panhandle's quantities are in dekatherms.

8. Viking Gas Transmission Co., ANR Pipeline Co. Northern Natural Gas Co.. Northern Natural Gas Co.

[Docket Nos. CP91-2990-000,[7] CP91-2991-000, CP91-2993-000, and CP91-2994-000]

September 10, 1991.

Take notice that on September 5, 1991, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157. 205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applications and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

[7] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average annual	Points of [2]		Start up date, rate schedule	Related [3] dockets
				Receipt	Delivery		
CP91-2990-000 (9-5-91)	Viking Gas Transmission Company, P.O. Box 2511, Houston, TX 77252.	Boston Gas Company.	100,000Dt 100,000Dt 36,500,000Dt	MN, ND, WI	MN, ND, WI	7-27-91, IT-2	CP90-273-000, ST91-10145-000.
CP91-2991-000 (9-5-91)	ANR Pipeline Company, 500 Renaissance Center, Detroit, MI 48243.	Indeck-Ilion Limited Partnership.	13,600Dt 13,600Dt 4,964,000Dt	LA, OLA	OH	7-1-91, FTS-1	CP88-532-000, ST91-10246-000.
CP91-2993-000 (9-5-91)	Northern Natural Gas Company, P.O. Box 1188, Houston, TX 77251-1188.	Caspen Gas Company.	60,000 45,000 21,900,000	IA, KS, MN, NM, OK, SD, TX, WI.	KS, NM, OK, TX	8-1-91, IT-1	CP86-435-000, ST91-10140-000.
CP91-2994-000 (9-5-91)	Northern Natural Gas Company.	Centran Corporation.	50,000 37,500 18,250,000	IA, KS, MN, NE, NM, OK, SD, TX, WI.	IA, KS, MI, MN, NE, OK, SD, TX, WI.	7-24-91, IT-1	CP86-435-000, ST91-10140-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

9. Panhandle Eastern Pipe Line Co.

[Docket No. CP91-2976-000, CP91-2977-000, CP91-2978-000]

September 10, 1991.

Take notice that Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-585-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[8]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peakday, average day, annual Dt	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2976-000 (9-3-91)	Village of Rossville (local distributor).	990 990 361,350	Various	IL	SCT, Firm	ST91-9751, 7-1-91.
CP91-2977-000 (9-3-91)	Town of Vici, OK (local distributor).	414 414 151,110	Various	OK	SCT, Firm	ST91-9744, 7-1-91.

Docket No. (date filed)	Shipper name (type)	Peakday, average day, annual Dt	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2978-000 (9-3-91)	Village of Stonington, Il (local distributor).	1,086 1,086 396,390	Various	IL	SCT, Firm	ST91-9745, 7-1-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

10. Williams Natural Gas Co.

[Docket No. CP91-2979-000]

September 10, 1991.

Take notice that on September 3, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket no. CP91-2979-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a delivery point in Carroll County, Missouri, for the delivery of transportation gas to Howard Reid (Reid), under WNG's blanket certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that Reid has requested this delivery point in order to operate a grain dryer. WNG states further that the projected volume of delivery through these facilities is estimated to be 4,900 Mcf annually and 50 Mcf on a peak day. It is said that the total estimated cost of construction is $15,220 which would be reimbursed by Reid.

It is further said that the proposed change is not prohibited by an existing tariff and that WNG has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

11. Florida Gas Transmission Co., Transwestern Pipeline Co.

[Docket Nos. CP91-2996-000, CP91-29997-000]

Take notice that on September 6, 1991, Florida Gas Transmission Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, and Transwestern Pipeline Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP89-555-000, and Docket No. CP88-133-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[9]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: October 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

[9] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2996-000 (9-6-91)	Orlando Utilities Commission.	[2] 11,072 [3] 8,304 [4] 4,041,445	OLA, OTX, TX, LA, MS, AL, FL.	FL	11-1-89, PTS-1, Interruptible [5].	ST91-9966-000, 7-16-91.
CP91-2997-000 (9-6-91)	Phillips Gas Marketing Company (marketer).	100,000 75,000 36,500,000	AZ, NM, OK, TX	AZ, NM, OK, TX	1-21-91, ITS-1, Interruptible.	ST91-10233-000, 8-2-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Phase I quantities are shown. Phase II quantities are 10,685 MMBtu.
[3] Phase I quantities are shown. Phase II quantities are 8,014 MMBtu.
[4] Phase I quantities are shown. Phase II quantities are 3,900,000 MMBtu.
[5] Preferred interruptible.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-2391 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-136-000]

Centra Pipelines Minnesota, Inc.; Informal Settlement Conference

September 11, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, October 1, 1991, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 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 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 John P. Roddy (202) 208-1176 or Anja M. Clark (202) 208-0248.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22392 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-218-000]

Great Lakes Gas Transmission Co.; Request for Waiver

September 11, 1991.

Take notice that Great Lakes Gas Transmission Company (Great Lakes) on August 30, 1991, filed with the Federal Energy Regulatory Commission (Commission) a request for waiver of the Commission's regulations requiring the filing of Great Lakes' Annual PGA filing.

Great Lakes states that the annual PGA filing is no longer necessary because (1) all of Great Lakes' customers, except for one under Rate Schedule CQ-2, have been unbundled; the resale customer purchasing gas under Rate Schedule CQ-2 makes payments directly to the supplier for gas purchases; (2) Great Lakes has incurred no purchased gas cost, either for resale or company use, since June 1, 1991; (3) all of Great Lakes' customers have provided that required company use gas volumes since June 1, 1991; and (4) Great Lakes' Account 191 direct billing (cash-out) will be completed upon Commission action on rehearing in Docket No. RP89-186, *et al.*

Great Lakes states that copies of its request are being served on all of Great Lakes' customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 18, 1991. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 22393 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-219-000]

National Fuel Gas Supply Corp.; Limited Purpose Rate Change Filing

September 11, 1991.

Take notice that on September 6, 1991, National Fuel Gas Supply Corporation (National), pursuant to section 4 of the Natural Gas Act and in compliance with the Niagara Import Point Projects (NIPPS) Phase III certificate order, 52 FERC ¶ 61,257 (1990) and rehearing order, 55 FERC ¶ 61,484 (1991), submitted a limited purpose rate change.

National states that in the NIPPS Phase III certificate order, the Commission authorized this limited purpose rate case filing to change the NIPPS Phase I and Phase II rates to match the rates approved therein for NIPPS III service.

National concludes that this limited section 4 rate filing incorporates restated NIPPS Phase III rates for all of its NIPPS Services as authorized by the Commission, and is filed at this time because National's Phase III facilities are expected to be in service by November 1, 1991.

National requests that the proposed rates for its NIPPS Phase I and Phase II shippers not be suspended and made subject to refund, and be put into effect on November 1, 1991.

National states that this filing is being mailed to all Phase I, II, and III shippers, State utility commissions, and those on the NIPPS service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 19, 1991. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22394 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC81-9-005]

Texas Gas Transmission Corp.; Tariff Sheet Filing

September 11, 1991.

Take notice that on September 10, 1991, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, tendered for filing in Docket No. TC81-9-005 the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Second Revised Sheet No. 91
Substitute Second Revised Sheet No. 92
Substitute Second Revised Sheet No. 93
Substitute Second Revised Sheet No. 94
Substitute Second Revised Sheet No. 95
Substitute Third Revised Sheet No. 96
Substitute Second Revised Sheet No. 97
Second Revised Sheet No. 194
Second Revised Sheet No. 195
Second Revised Sheet No. 196
First Revised Sheet No. 197

The above revised tariff sheets are proposed as replacements to the tariff sheets which Texas Gas filed on October 1, 1990, in Docket No. TC81-9-003 and the related tariff sheets filed on April 4, 1991, in Docket No. TC81-9-004, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Docket No. TC81-9-003, Texas Gas proposed changes to its existing curtailment plan approved by Commission order issued April 19, 1983, in Docket No. TC81-9-000. In that filing, Texas Gas also indicated that it would supplement its filing with a revised Index of Quantity Entitlement (RIQE), which would reflect current customer entitlements as of April 1, 1991. A Data Verification Committee (DVC) was established to update and verify the priority of service data for each of its customers. Subsequently, Texas Gas stated that the DVC was unable to complete its research in the time allotted (i.e., by April 1, 1991) and Texas Gas filed amending Docket No. TC81-9-004 in which Texas Gas sought additional time for the DVC to complete the process of verifying the underlying data needed to support its RIQE. Texas Gas also indicated that its filing, Docket No. TC81-9-004, included a new section 10.2(h) to Texas Gas' General Terms and Conditions which provided that any customer whose requirements have significantly changed may request an update of its requirements by submitting such new requirements to Texas Gas on or before August 1 each year for certification by the DVC.

Texas Gas states that on August 28, 1991, a final report was approved by the DVC. Accordingly, Texas Gas now files, as part of Docket No. TC81-9-005, Second Revised Sheets Nos. 194 through 196 and First Revised Sheet No. 197 which reflects its RIQE. For ease of reference and to reflect corrections of certain superseded sheet designations, Texas Gas has also filed superseding tariff sheets which completely replace those sheets submitted in the filings dated October 1, 1990 and April 4, 1991. The above identified tariff sheets set forth section 10.2 through 10.7 of the General Terms and Conditions and the Index of Quantity Entitlements for Texas Gas' sales customers. These sheets constitute Texas Gas' proposed sales curtailment plan. Texas Gas contends that the basic curtailment plan as revised is essentially unchanged from the plan approved in 1983 except that the proposed plan now has provisions which (1) make essential agricultural end-users requirements a priority 2 category and (2) require a periodic updating of the Quantity of Entitlements at least every three years. In regards to the RIQE, Texas Gas asserts that this index reflects current seasonal requirements for each of its sales customers and that each customer's quantity entitlement is equal to the greater of its applicable D-2 billing demand quantity or its actual base period requirements, as set forth in the DVC Final Report which was also included as part of Texas Gas' filing in Docket No. TC81-9-005.

Texas Gas moves that the Commission accept the revised tariff sheets and place them into effect on November 1, 1991. Texas Gas requests for any and all waivers necessary to accept this filing, Docket No. TC81-9-005, and the related tariff sheets and to place the tariff sheets in effect on the date requested.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before September 23, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 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). 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 protests 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. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22395 Filed 9-17-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the proposed procedures to be followed in refunding to adversely affected parties $443.073.30, plus accrued interest, that Strasburger Enterprises, Inc. was required to remit to the DOE pursuant to a Consent Order executed on December 16, 1986. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATE AND ADDRESS: Comments must be filed in duplicate on or before October 18, 1991 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a conspicuous reference to Case Number LEF-0014.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Jodi E. Lox, Staff Analyst, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8018 (Tedrow), (202) 586-6602 (Lox).

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute monies that have been remitted by Strasburger Enterprises, Inc. to the DOE to settle alleged pricing and allocation violations with respect to the firms' sales of crude oil. The DOE is holding the funds, currently totalling $562,664.44,

in an interest-bearing escrow account pending distribution.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: September 12, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Strasburger Enterprises, Inc.

Date of Filing: February 23, 1990.

Case Number: LEF-0014.

September 12, 1991.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the Mandatory Petroleum Price and Allocation Regulations. See 10 CFR part 205, subpart V. On February 23, 1990, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Strasburger Enterprises, Inc. (Strasburger).

I. Background

Strasburger was a "reseller-retailer" of motor gasoline, as that term was defined in 10 CFR 212.31, located in Temple, Texas. A DOE audit of Strasburger's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR part 212, subpart F. Specifically, the audit revealed that between August 19, 1973 and January 27, 1981, Strasburger may have violated the DOE's pricing regulations with respect to its sales of motor gasoline.

In order to resolve its potential civil liabilities arising from the ERA's audit, Strasburger entered into a Consent Order with the DOE on December 16, 1986. The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Strasburger does not admit any such violations. Under the terms of the Consent Order, Strasburger was required to deposit $395,000 into an escrow account for ultimate distribution by the DOE. On February 2, 1990, Strasburger made a full payment of $443,073.30 into this account. This Proposed Decision and Order sets forth the OHA's tentative plan for the distribution of the funds in the Strasburger escrow account. Comments are solicited.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE is unable to identify readily those persons who may have been injured by alleged regulatory violations or to determine the amount of such injuries. A more detailed discussion of subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of Office of Enforcement, 9 DOE ¶ 82,508 (1981); and Office of Enforcement, 8 DOE ¶ 82,597 (1981) (*Vickers*).

In keeping with the goals of the subpart V regulations, we will attempt to provide refunds to claimants who demonstrate that they were injured by Strasburger's alleged overcharges in its sales of motor gasoline during the August 19, 1973 through January 27, 1981 consent order period. Residual funds in the Strasburger escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Public Law No. 99-509, title III. See 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. In order to determine the potential refunds for these purchases, we propose to adopt a presumption that the alleged overcharges were dispersed equally in all of Strasburger's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis. In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

The volumetric refund presumption is rebuttable. The impact on an individual claimant may have been greater than its potential refund calculated using the volumetric methodology. Accordingly, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. *See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service,* 12 DOE ¶ 85,015 (1984).

Under the volumetric approach, an eligible claimant will receive a refund equal to the number of gallons of motor gasoline that it purchased from Strasburger during the period August 19, 1973 through January 27, 1981, multiplied by a volumetric factor of $0.006801 per gallon.[1] In addition, each successful claimant will receive a pro-rata portion of the interest that has accrued on the Strasburger funds since the date of remittance.

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See, e.g., Mobil Oil Corp.,* 13 DOE ¶ 85,339 (1985) *see also* 10 CFR 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least 2,206 gallons of Strasburger motor gasoline in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated, we must determine whether it was injured by its purchases from Strasburger, *i.e.,* whether it was forced to absorb the alleged overcharges. Based on our experience in numerous Subpart V proceedings, we propose to adopt certain presumptions concerning injury in this case. An applicant that is not covered by one of these presumptions must demonstrate injury in accordance with the non-

[1] We computed the volumetric factor by dividing the $443,073.30 received from Strasburger by the total volume of covered products sold by the firm during the consent order period (65,147,743 gallons).

presumption procedures outlined in the latter part of this Decision.

1. Presumptions Concerning Injury

The presumptions we plan to adopt in this case are designed to allow claimants to participate in the refund process without incurring inordinate expenses, and to enable OHA to consider the refund applications in the most efficient way possible. We will presume that end users of Strasburger motor gasoline, certain types of regulated firms, and cooperatives were injured by their purchases from Strasburger. In addition, we will presume that resellers and retailers of Strasburger gasoline submitting small claims were injured by their purchases. On the other hand, we will presume that resellers and retailers that made spot purchases of Strasburger motor gasoline and those who sold it on consignment were not injured by their purchases. Each of these presumptions is listed below, along with the rationale underlying its use.

a. End Users. First, in accordance with prior subpart V proceedings, we will presume that end users, *i.e.*, ultimate consumers of Strasburger motor gasoline whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Marion Corp.*, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end users need only document their purchase volumes of Strasburger motor gasoline to demonstrate that they were injured by the alleged overcharges.

b. Regulated Firms and Cooperatives. Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms routinely would have passed through price increases to their customers. Likewise, their customers would share the benefits of costs decreases resulting from refunds. *See. e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982); *Office of Special Council*, 9 DOE ¶ 82,545 at 85,244 (1982). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will not be covered by this presumption.

c. Reseller and Retailer Small Claims. Third we will presume that a reseller or a retailer seeking a refund of $5,000 or less, excluding accrued interest, was injured by Strasburger. Without this presumption, such an applicant would have to gather records dating as far back as 1973 in order to demonstrate that it absorbed Strasburger's alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, a small claimant must only document the volumes of products that it purchased from Strasburger in order to demonstrate injury. *See Texaco Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984).

d. Resellers and Retailers Filing Mid-Level Claims. Fourth, in lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 of 40 percent of its allocable share up to $50,000.[2] The use of this presumption reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed economic analysis in order to determine product-specific levels of injury. *See e.g. Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). However, in *Gulf Oil Corp.*, 16 DOE ¶ 83,381 at 88,737 (1987), we determined that based upon the available data, it was accurate and efficient to adopt a single presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach to be sound in the absence of more detailed information for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Strasburger motor gasoline during the consent order period in order to be eligible to receive a refund of 40 percent of its total volumetric share, or $5,000, whichever is greater.

e. Spot Purchasers. Fifth, resellers and retailers that were spot purchasers of Strasburger motor gasoline, *i.e.*, firms that made only sporadic, discretionary purchases, are presumed not to have been injured, and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore, would not have made a purchase unless it was able to recover the full amount of its purchase price from its customers, including any alleged overcharges included in its costs. *See Vickers* at 85,396–7. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. *See e.g., Saber Energy, Inc./Mobil Oil Corp.*, 14 DOE ¶ 85,170 (1986).

f. Consignees. Finally, we will presume that consignees of Strasburger motor gasoline were not injured by the firm's alleged pricing violations. *See, e.g., Jay Oil Co.*, 16 DOE ¶ 85,147 (1987). A consignee agent is an entity that sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of Strasburger's pricing practices. *See Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 at 88,962 (1986).

2. Allocation Claims

We may also receive claims based upon Strasburger's alleged failure to furnish petroleum products that it was obliged to supply under the DOE allocation requirements. *See* 10 CFR part 211. Any such applications will be evaluated with reference to the standards set forth in cases such as *Standard Oil Company (Indiana)*, 10 DOE ¶ 85,048, and *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant

[2] That is, claimants who purchased between 1,837,965 gallons and 18,379,650 gallons of Strasburger motor gasoline during the consent order period (mid-level claimants) may elect to utilize this presumption. Claimants who purchased more than 18,379,650 may elect to limit their claim to $50,000.

should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

3. Non-Presumption Demonstration of Injury

A reseller or retailer that claims a refund in excess of $5,000 will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm is required to provide a monthly schedule of its banks of unrecouped increased products costs for each grade of motor gasoline that it purchased from Strasburger. Cost banks should cover the period August 19, 1973 through January 27, 1981.[3] If a firm no longer has records of contemporaneously calculated cost banks for a particular grade of motor gasoline, it may approximate those banks by submitting the following information regarding its purchases of that product from all of its supplier.

(1) The weighted average gross profit margin that the firm received for the product on May 15, 1973.

(2) A monthly schedule of the weighted average gross profit margins that it received for the product during the period, August 19, 1973 through January 27, 1981; and

(3) A monthly schedule of the firm's purchase or sales volumes of the products during the period, August 19, 1973 through January 27, 1981.[4]

The existence of banks of unrecovered increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. Generally, we will infer this to be true if the prices the applicant paid Strasburger were higher than average market prices for the same level of distribution. Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Strasburger for each grade of motor gasoline during the period August 19, 1973 through January 27, 1981.

[3] We generally require applicants to submit cost banks that continue until a product's decontrol date. Retailers and resellers of motor gasoline, however, were only required to maintain banks through July 15, 1979 and April 30, 1980, respectively, rather than the January 27, 1981 decontrol date of products.

[4] For motor gasoline, retailers and resellers have to submit the information detailed in Parts (2) and (3) only through July 15, 1979 and April 30, 1980, respectively. *See supra* note 3.

If a reseller or retailer that is eligible for a refund in excess of $5,000 does not submit cost bank and purchase price information described above, it can still apply for a refund of $5,000 plus accrued interest, using the small claims presumption.

If, however, a firm provides the above mentioned data and we subsequently conclude that the firm should receive a refund of less than the $5,000 small claims threshold, the firm cannot opt for a full $5,000 refund.

III. Distribution of Remaining Funds

In the event that money remains after all meritorious refund applications have been processed, the funds in the Strasburger escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge and Distribution Act of 1986 (PODRA). 15 U.S.C.A. 4501–4507 (West Supp. 1989).

It is Therefore Ordered that The refund amount remitted to the Department of Energy by Strasburger Enterprises, Inc. pursuant to the Consent Order executed on December 16, 1986, will be distributed in accordance with the foregoing Decision.

[FR Doc. 91-22469 Filed 9-17-91; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Salt Lake City Area Integrated Projects Proposed Power Rate and Colorado River Storage Project Transmission Rate Adjustments

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed Salt Lake City Area Integrated Projects (SLCA/IP) Firm Power and Colorado River Storage Project (CRSP) Firm Transmission Rate Adjustments.

SUMMARY: The Western Area Power Administration (Western) is proposing a rate increase for firm power from the SLCA/IP and for firm transmission from the CRSP. Western integrated the CRSP, the Collbran Project, and the Rio Grande Project for marketing and power ratesetting purposes on October 1, 1987. They are now collectively referred to as the SLCA/IP.

Firm Power Rate

Western needs to adjust the firm power rate to cover increased annual expenses (such as operation and maintenance (O&M) costs, including purchased power costs, and environmental studies costs), interest expenses, and to repay increased amounts of Federal power investment in the SLCA/IP. In addition, the Upper Colorado River Basin Fund (Basin Fund), a revolving fund in the U.S. Treasury, is experiencing near-term cash flow difficulties. The rate approval period requested will be from July 1, 1992, through September 30, 1996. The calculation period used for the ratesetting period is from fiscal year (FY) 1993 through FY 1996.

The following factors affect the rate. For the purposes of this notice, Western has made certain assumptions regarding each factor. These assumptions may change as uncertainty about the issues declines or the issues are resolved.

1. *Unbudgeted Environmental Studies Costs:* Current estimated environmental studies costs exceed the estimates submitted in the FY 1992 congressional budget by nearly $23 million and are all included in the study.

2. *Interim flows:* On August 1, 1991, the Bureau of Reclamation (Reclamation) initiated a test flows and interim operations (test flows) period and changed the operations of Glen Canyon Dam to protect resources downstream from the dam. The test flows water release criteria may be adopted or modified by Reclamation when it announces the interim release criteria to be placed in effect from November 1, 1991, through 1993, or until the Glen Canyon Environmental Impact Statement is finalized. Western may have to purchase substantial amount of power (energy and/or capacity) to replace the unavailable generation due to the water release restrictions. For purposes of this notice, Western has assumed an additional $22.7 million annually in purchased power costs through FY 1996.

3. *Underbudgeting of O&M Costs:* Historically there has been a tendency to underestimate both Western and Reclamation O&M budgets beyond the first 2 years. This underbudgeting has resulted in rates set below what is needed to meet revenue requirements. Western proposes to compare budgeted O&M costs with a historic trend line and use whichever estimate is greater to project more accurately the revenue requirements needed in future years. Using this analysis, the projections of O&M costs are increasing by a average of 5.3 percent per year over the ratesetting period.

4. *Inclusion of Employee Benefits in the Rate Base:* Western has made the commitment that all employee salaries and benefits would be included in the rate base. Western's Civil Service retirement costs and accrued annual leave obligations for current employees

have not been included to date and are now included as part of the rate base.

Other Issues

1. *Basin Fund Reserve:* Sufficient monies must be established and maintained in the Basin Fund to meet "* * * operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River Storage Project and participating projects * * *" (section (c) of the CRSP Act of 1956). Sufficient reserves must be available annually to meet these expenses. Western intends to establish methodology which will provide such a reserve and is seeking comments on the methodology and timing to provide a reserve.

2. *Central Utah Project Legislation:* This issue is not expected to affect the rate until after the ratesetting period, FY 1993–96 and thus its rate effect is not included in this rate adjustment. The Central Utah Project is a participating project of CRSP that has encountered significant delays in its completion. The legislation that has passed in the U.S. House of Representatives and is pending in the U.S. Senate would provide additional ceiling of $69 million to complete the Diamond Fork system and $150 million to complete the irrigation and drainage system in central Utah. This issue is documented here for informational purposes.

The rate effect of each of these factors is detailed in a separate rate brochure which will be distributed to all interested parties.

The proposed power rate consists of a capacity charge of $5.06 per kilowatt-month (kW-month) and energy charge of 11.9 mills per kilowatt-hour (mills/kWh). This results in a proposed combined rate of 23.8 mills/kWh for FY 1993–96 calculated at a 58.2-percent load factor. The proposed rate would become effective July 1, 1992. This is a 64.1-percent increase over the present combined rate of 14.5 mills/kWh calculated at a load factor of 58.2 percent. It is 83.1 percent over the combined rate of 13.0 mills at a load factor of 58.2 percent that would have taken effect at the beginning of FY 1993 without any rate adjustment. The proposed rates will recover $29,589,000 of additional revenues per year over the current rates.

The proposed rate maintains the current 50/50 split between the capacity and energy components. Western is soliciting comments on different classification of the capacity/energy components that may give greater weight to the capacity charge. For example, a 60/40 split between capacity and energy would value capacity greater, thus encouraging more efficient usage of capacity. Time-differentiated rates may further discourage on-peak usage. Comments on these and other rate design issues are solicited. No matter which rate design is adopted, cost recovery and repayment criteria must be maintained, and the rates must still be cost-based.

The following table compares the current rates with the proposed rate:

	Present rate (FY 1991–1992)	Present rate (FY 1993–1995)	Proposed rate (FY 1993–1996)
Energy (Mills/kWh)	7.25	6.5	11.9
Capacity ($/kW-Month)	$3.08	$2.76	$5.06
Capacity ($/kW-Year)	$36.96	$33.12	$60.72
Combined Rate (Mills/kWh)	14.5	13.0	23.8

Total revenues	Present rate	Proposed rate
FY 1993–1996	$552,357,000	$670,592,000

Firm Transmission Rate

Western is proposing to increase the firm transmission rate to assure that transmission customers equitably share in repayment of the costs associated with the CRSP transmission system. The current firm transmission rate expires on June 30, 1992. The proposed firm power rate would become effective July 1, 1992.

The proposed rate for firm transmission is $25.20 per kW-year for each contracted kilowatt of transmission service. The proposed rate would be effective July 1, 1992, and would be a monthly rate of $2.10/kW-month. This proposed transmission rate represents a 16.0-percent increase over the current firm rate of $1.81/kW-month, or $21.72/kW-year. The proposed rate is needed due to increased O&M costs and new transmission investment. The proposed rate will generate an average of approximately $10,630,000 per year. It should be noted that the cost of the transmission system is included in the firm power rate. The additional revenue obtained from transmission customers is included as other revenue in the SLCA/IP Power Repayment Study.

Procedures

A brochure explaining the need for the proposed rate increases and the methodology used in developing the proposed rates will be distributed to SLCA/IP power and CRSP transmission customers and other interested parties following publication of this notice. Customers and interested parties are invited to comment on the proposed rates and the methodology used to develop the rates.

The proposed SLCA/IP firm power rate adjustment is a major rate adjustment in accordance with the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR part 903), because annual SLCA/IP sales are normally more than 100 million kWh. Therefore, both a public information forum and a public comment forum will be held.

Following the close of the consultation and comment period, Western will prepare a new power repayment study and a new CRSP transmission rate study, which will include (1) actual FY 1991 financial data which will then be available, (2) any changes due to consideration of public comments, and (3) as many of the six factors listed above that have been resolved. Western will recommend the results of these studies as the final proposed rates to the Assistant Secretary for Conservation and Renewable Energy to be placed in effect on an interim basis prior to submission to the Federal Energy Regulatory Commission (FERC) for approval on a final basis.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end not less than 90 days later, or December 19, 1991, whichever occurs last.

Western will outline the methodology used in developing the proposed rate increases and answer questions at a public information forum, which will be held at the Red Lion Inn, 255 South West Temple, Salt Lake City, Utah, at 8:30 a.m. on November 13, 1991. Western will receive oral and written comments at a public comment forum held at the Red Lion Inn at 9:30 a.m. on December 4, 1991. Both forums will be transcribed by a court reporter. All questions raised at the forum will be answered at the forum or at least 15 days before the end of the consultation and comment period. Written comments should be received by the end of the consultation and comment period to be assured consideration. Comments may be sent to: Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147-0606, (801) 524–5493.

SUPPLEMENTARY INFORMATION: Power rates for the SLCA/IP and transmission rates for CRSP are established pursuant to the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, *et seq.*; the Reclamation Act of 1902, 32 U.S.C. 388, *et seq.*, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939. 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Amendment No. 2 to Delegation Order No. 0204-108, published August 23, 1991 (56 FR 41835), the Secretary of Energy delegated: (1) The authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Assistant Secretary for Conservation and Renewable Energy of DOE; and (3) the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the FERC.

The procedures for public participation in rate adjustments for power and transmission service marketed by Western, which are found at 10 CFR part 903, were published in the **Federal Register** at 50 FR 37835 on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rates are and will be available for inspection and copying at the Western Area Power Administration, Salt Lake City Area Office, 257 East 200 South, suite 475, Salt Lake City, Utah.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency which is required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the proposed rates relates to services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the Act. Because the proposed rates are of limited applicability, Western believes that no flexibility analysis is required.

Determination Under Executive Order 12291

DOE has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193, published February 19, 1981). In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore will not prepare a regulatory impact statement.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969, Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508), and DOE guidelines published at 52 FR 47662 on December 15, 1987, Western will conduct an environmental evaluation of the SLCA/IP and CRSP transmission adjustments and develop the appropriate level of environmental documentation prior to the implementation of any rate increase.

Issued at Golden, Colorado, September 11, 1991.

William H. Clagett,

Administrator.

[FR Doc. 91-22474 Filed 9-17-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3997-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before October 18, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: National Human Adipose Tissue Survey. (EPA ICR No. 0939.05; OMB #2070-0050). This is an extension of the expiration date of a currently approved collection.

Abstract: The National Human Adipose Tissue Survey (NHATS) is an ongoing monitoring program operated by the Office of Toxic Substances (OTS). The objective of the survey is to monitor on a national scale the prevalence and level of exposure to selected toxic substances in the general population. Human adipose tissue samples are collected by cooperating pathologists and medical examiners across the country. The tissues are analyzed for selected toxic substances. These data are used by EPA to measure trends over time, to assess the effects of regulatory actions and to provide baseline data.

Burden Statement: The public reporting burden for this collection of information is estimated to average one hour per response including time to excise the tissue, complete the patient summary report form, and prepare the sample for shipment.

Respondents: Participating medical examiners and pathologists.

Estimated No. of Respondents: 50.

Estimated No. of Responses Per Respondent: 32.

Estimated Total Annual Burden on Respondents: 1,600.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, D.C. 20460; and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, D.C. 20503.

Dated: September 12, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91-22478 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3997-7]

Acid Rain Advisory Committee; "Opt-In" Subcommittee; Open Meeting

SUMMARY: In August of 1990, the U.S. Environmental Protection Agency gave notice of the establishment of an Acid Rain Advisory Committee (ARAC) which would provide advice to the Agency on issues related to the development and implementation of the requirements of the acid deposition control title of the Clean Air Act Amendments of 1990.

At its July 15-16 meeting, ARAC established an "Opt-In" Subcommittee

to provide advice on issues related to the development or regulations under title IV, section 410 of the Clean Air Act Amendments of 1990. This section allows sources which are not affected units under title IV to participate in the allowance market by electing to become affected sources. These sources include certain utility units, industrial units, and process sources which generate sulfur dioxide emissions from non fossil fuel-fired combustion devices. Sources "opting in" to the allowance system will be allocated allowances by EPA and, like utilities, will be able to bank or trade allowances if they make reductions.

OPEN MEETING DATES AND ADDITIONAL INFORMATION: Notice is hereby given that the ARAC "Opt-In" Subcommittee will hold its first open meeting on September 30 from 9 a.m. to 5 p.m. at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC (202) 234-0700. The meeting agenda will include a bankground on the "opt-in" program and discussions on baseline allowance allocations, the relationship between the "opt-in" and other ambient air programs, and the development of an operating schematic.

INSPECTION OF COMMITTEE DOCUMENTS: All documents for this meeting including a more detailed meeting agenda will be publicly available in limited numbers at the meeting. Thereafter, these documents will be available in EPA Air Docket Number A-90-39 in room 1500 of EPA headquarters, 401 M Street SW., Washington, DC. Hours of inspection are 9:30 a.m. to 12 noon and 1:30 to 3:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Concerning the "Opt-In" Subcommittee and its activities, contact Julie Rosenberg at (202) 260-2877; fax (202) 260-0892, or by mail at USEPA, Acid Rain Division (ANR 445), Office of Air and Radiation, Washington, DC 20460.

Eileen B. Claussen,

Director, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation.

[FR Doc. 91-22479 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50733; FRL-3939-3]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

241-EUP-124. Renewal. American Cyanamid Company, Agricultural Research Division, P. O. Box 400, Princeton, NJ 08543-0400. This experimental use permit allows the use of 1,802 pounds of the herbicide isopropylamine salt of imazapyr on 2,400 acres of forest sites to evaluate the control of brush. The program is authorized only in the States of Oregon and Washington. The experimental use permit is effective from August 7, 1991 to December 31, 1992. (Robert Taylor, PM 25, rm. 241, CM #2, (703-557-1800))

279-EUP-126. Issuance. FMC Corporation, 1735 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 1,309.5 pounds of the insecticide s-cyano (3-phenoxyphenyl)methyl (±) cis/trans 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropane carboxylate on 4,365 acres of cotton, lettuce, and pecans to evaluate the control of various insect pests. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Louisiana, Michigan, Mississippi, Missouri, North Carolina, New Jersey, New Mexico, New York, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin. The experimental use permit is effective from August 1, 1991 to August 1, 1992. A temporary tolerance for residues of the active ingredient in or on cotton, lettuce, and pecans has been established. (George LaRocca, PM 15, rm. 204, CM #2, (703-557-2400))

612-EUP-6. Issuance. Unocal Chemicals, 3960 Industrial Blvd., Suite 600-B, West Sacramento, CA 95691. This experimental use permit allows the use of 16,773.9 pounds of the herbicide monocarbamide dihydrogensulfate on 500 acres of cotton to evaluate the control of various annual broadleaf weeds. The program is authorized only in the State of Georgia in the counties of Clay, Miller, Randolf, and Terrell. The experimental use permit is effective from July 15, 1991 to August 15, 1991. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on all raw agricultural commodities has been established (40 CFR 180.1084). (Robert Taylor, PM 25, rm. CM #2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

Dated: August 29, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-22483 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60023; FRL-3948-1]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6 (f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The Notices were issued following issuance of Data Call-In Notices by the Agency and the failure of registrants subject to the Data Call-In Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the

timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the 3(c)(2)(B) Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding

sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Stephen L. Brozena at (703) 308-8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:
Attachment I - Product List
Attachment II - Requirement List
Attachment III - Explanatory Appendix

II. Registrant Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Atochem North America	4581-255	Maneb	Maneb 80	8/8/91
	4581-355	Maneb	Maneb Technical	8/8/91
	4581-359	Maneb	Maneb Plus Zinc F4 Fungicide	8/8/91

III. Basis for Issuance of Notices of Intent; Requirement List

The following company failed to submit the following required data or information:

TABLE B—LIST OF REQUIREMENTS

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference	Original Due-Date
Maneb	Atochem North America	Worker Reentry Exposure (WRE); Crop-Grapes; Site-CA	133-3	3/31/91
		Dislodgeable Foliar Residue (DFR); Crop-Tomato; Site-CA	132-1	3/31/91
		Dislodgeable Foliar Residue (DFR); Crop-Tomato; Site-FL	132-1	7/31/91
		Dislodgeable Foliar Residue (DFR)-Maneb without Zinc; Crop-Tomato; Site-FL	132-1	7/31/91

IV. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notices of Intent to Suspend follows:

On March 10, 1989, EPA issued a Data Call-In (DCI) Notice pursuant to the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which required registrants of pesticide products containing any of the following ethylene bisthiocarbamate (EBDC) active ingredients, maneb, mancozeb, metiram, zineb, and/or nabam to meet certain data requirements in order to maintain the continued registration of their products. Failure to comply with the requirements of a Data Call-In Notice is a basis for suspension under 3(c)(2)(B) of FIFRA.

The ethylene bisthiocarbamate Data Call-In required each affected registrant to submit materials demonstrating selection by the registrant of the options to address the data requirements. On June 16, 1989, Atochem North America, registrant of certain EBDC affected products, committed to generate and submit data for maneb for the Worker Reentry Exposure and Dislodgeable Foliar Residue studies by the deadlines required by the Data Call-In Notice. Because of the need to resolve certain issues prior to approval of a final protocol, the Agency twice modified deadlines for the studies until March 31, 1991. The registrant filed subsequent time extension requests on April 11, 1991, May 17, 1991, and June 21, 1991, which the Agency reviewed. In a letter dated July 16, 1991, the Agency informed Atochem North America extending the deadlines for certain studies for which it found an extension justified, and that it was denying others due to a lack of justification. To date the Agency has not received the required data as noted on Attachment II.

Because you have failed to provide appropriate or adequate data submissions within the time provided for the data requirements listed in Attachment II, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these

Notices may be obtained from the contact person noted above.

Dated: September 13, 1991.

Connie S. Musgrove,

Acting Director, Office of Compliance Monitoring.

[FR Doc. 91-22569 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100097; FRL-3942-9]

Clement International Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Clement International Corporation has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Clement International Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2). This transfer will enable Clement International Corporation to fulfill the obligations of the contract and serves to notify affected persons.

DATES: Clement International Corporation will be given access to this information no sooner than September 23, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-D1-0075, Clement International Corporation will provide technical support to the Office of Pesticide Programs, by reviewing and evaluating toxicological and pharmacological studies in laboratory animals, clinical reports, monitoring and epidemiological studies, and accident data where applicable. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by Clement International Corporation to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Clement International Corporation prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Clement International Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Clement International Corporation by EPA for use in connection with this contract will be returned to EPA when Clement International Corporation has completed its work.

Dated: August 26, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-22198 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100096; FRL-3942-8]

SRA Technologies, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). SRA Technologies, Inc. has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SRA Technologies, Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2). This transfer will enable SRA Technologies, Inc. to fulfill the obligations of the contract and serves to notify affected persons.

DATES: SRA Technologies, Inc. will be given access to this information no sooner than September 23, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-D8-0017, SRA Technologies, Inc. will provide technical support to the Office of Pesticide Programs, in the development of an information tracking system for data submitted on purchaser acknowledgement statements received pursuant to FIFRA section 17, that could potentially be used to identify and characterize possible sources of exposure to pesticides and to monitor activities related to pesticide exports. SRA Technologies, Inc. will also provide assistance in the preparation of guidance material on canceled or suspended pesticides in order to communicate these results to other government programs and the international community. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by SRA Technologies, Inc. to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with SRA Technologies, Inc. prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency;

and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SRA Technologies, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to SRA Technologies, Inc. by EPA for use in connection with this contract will be returned to EPA when SRA Technologies, Inc. has completed its work.

Dated: August 26, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-22199 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50734; FRL-3943-9]

Receipt of a Request for an Exemption Regarding Notifications of Intent to Conduct Small-Scale Field Testing; Nonindigenous Bacillus Thuringiensis Strains

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an exemption request regarding notifications of intent to conduct small-scale field test involving nonindigenous *Bacillus thuringiensis* strains from the E.I. duPont deNemours and Company, Inc.

DATES: Written comments must be received on or before October 18, 1991.

ADDRESSES: By mail, submit written comments to: Program Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 1128 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

SUPPLEMENTARY INFORMATION: An exemption request regarding notifications of intent to conduct small-scale field tests involving nonindigenous *Bacillus thuringiensis* strains pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from the E.I. duPont deNemours and Company, Inc. of Wilmington, DE.

The purpose of the proposed testing will be to evaluate the efficacy of nonindigenous *Bacillus thuringiensis* isolates towards lepidopterous and coleopterus insect pests of vegetables and field crops. The experiments will take place on duPont test farms in California, Delaware, Florida, Illinois, Maryland, Mississippi, and Texas. Total acreage treated per *Bacillus thuringiensis* strain will not exceed 2 acres per calendar year. All crops will be destroyed and will not be used for food or feed.

The *Bacillus thuringiensis* strains tested will fall within certain characterizations criteria proposed by duPont. These criteria involve biochemical testing, plasmid characterization, SDS-PAGE protein profile, the absence of Beta-exotoxin, and serotype.

Following the review of the application and any comments received in response to this Notice, EPA will decide whether or not nonindigenous strains of *Bacillus thuringiensis* as described by duPont and tested under the above-mentioned field conditions merit notification to the Agency to determine whether or not an experimental use permit is required.

Dated: September 6, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-22200 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[PF-550; FRL-3946-2]

Valent U.S.A. Corp.; Notice of Filing of Feed Additive Petition for Clethodim

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Valent U.S.A. Corp. feed additive petition (FAP) 1H5614 proposing to establish tolerances for the herbicide clethodim in or on the feed commodities soybean soapstock at 15.0 parts per million (ppm) and cottonseed meal at 2.0 ppm.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM-23), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-557-1830.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from the Valent U.S.A. Corp., 1333 North California Blvd., P.O. Box 8025, Walnut Creek, CA 94596-8025, a filing of feed

additive petition (FAP) 1H5614 proposing that 40 CFR part 186 be amended to establish feed additive tolerances for the combined residues of the herbicide clethodim, (E)-2-[1-(((3-chloro-2-propenyl)oxy)imino)propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one, and its metabolites containing the 2-cyclohexene-1-one moiety in or on the following feed commodities: soybean soapstock at 15.0 ppm and cottonseed meal at 2.0 ppm.

Valent U.S.A. Corp. had previously submitted pesticide petition (PP) 9F3743 proposing to amend 40 CFR part 180 by establishing a regulation to permit residues of clethodim and its metabolites in or on soybeans at 10.0 ppm; cottonseed at 5.0 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm; milk at 0.05 ppm; and eggs at 0.5 ppm. The proposed analytical method for determining residues is gas chromatography.

Authority: 21 U.S.C. 346a and 348.

Dated: September 13, 1991.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-22570 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-140154; FRL-3938-8]

Access to Confidential Business Information by Research Triangle Institute

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Research Triangle Institute (RTI), of Research Triangle Park, North Carolina, for access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than September 30, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D1-0009, contractor RTI, of 3040 Cornwallis Road, Research Triangle Park, NC, will assist the Office of Toxic Substances (OTS) in auditing EPA's stack sampling procedures at industry facilities.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D1-0009, RTI will require access to CBI submitted to EPA under sections 4, 5, 6, and 8, of TSCA to perform successfully the duties specified under the contract. RTI personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at industry facilities only.

Clearance for access to TSCA CBI under this contract may continue until July 31, 1992.

RTI personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: September 5, 1991.

Linda A. Travers,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-22481 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

[Docket No. 3995-9]

Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action to grant a case-by-case extension.

SUMMARY: The EPA is granting final approval to E.I. du Pont de Nemours & Co., Inc., in Orange, Texas for an additional case-by-case extension for specific injected wastes which were impacted by the August 8, 1990, ban date (California listed wastes, solvents less than one (1) percent solvent constituents and First Third wastes). This action responds to the position submitted under 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allows any person to request that the Administration grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. The Agency proposed action on this request in a July 19, 1991, Federal Register notice. See (55 FR 33288). By granting this approval, Dupont-Orange can inject the above identified wastes through November 7, 1991, but not later than this date without being subject to the prohibitions applicable to such wastes.

DATES: This Action is effective September 4, 1991.

ADDRESSES: The docket for this action is located at the EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is open during normal business hours, 8 a.m. through 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For information contact Oscar Cabra, Jr., Chief Municipal Facilities Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733 or telephone (214) 655-7110, FTS 255-7110.

SUPPLEMENTARY INFORMATION:

I. Summary of Proposal and Response to Comments

A. Background

A more complete discussion of the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act (RCRA), may be found in previous rulemakings by the Agency. See 55 FR 22502, June 1, 1990.

On July 26, 1988, EPA promulgated a final rule (53 FR 28118, effective August 8, 1988), that established an effective date of August 8, 1990 for injected spent F001-F005 solvent wastes containing less than 1 percent solvent constituents. An August 8, 1990, effective date was established for specified California list wastes that are deep well injected. See 53 FR 30908, effective August 8, 1988.

Section 3004(m) requires the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. Wastes that meet treatment standards established by EPA are no longer prohibited and may be land disposed.

Section 3004 (d), (e), (f), and (g) also allows the applicant to demonstrate to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone

for as long as the wastes remain hazardous. The no migration petition process has been established by the Agency for injected wastes under 40 CFR 148 subpart C. See 53 FR 28118, July 26, 1988.

Congress recognized that adequate alternative treatment, recovery, or disposal capacity any of which is protective of human health and the environment may not be available by the applicable statutory effective dates and authorized EPA to grant a variance (based on the earliest dates that such capacity will be available) from the effective date which would otherwise apply to specific hazardous wastes (RCRA section 3004 (h)(2) and (h)(3)). In addition, under section 3004(h)(3), the Agency can grant case-by-case extensions of the statutory deadlines for up to one year beyond the applicable deadlines. These extensions are renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions program including procedures for submitting case-by-case extensions under § 268.5. On July 26, 1988, EPA published a final rule (53 FR 28118) establishing restrictions and requirements for Class I hazardous waste injection wells, including the framework for the no migration petition process and allowing case-by-case extensions under § 148.4 following § 268.5 procedures.

B. Demonstration Requirements

1. Summary of Requirements

Case-by-Case extension applications must satisfy the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): The applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)), but due to circumstances beyond his control, this alternative capability cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)).

In addition, EPA has established by regulation the following requirements: The applicant must demonstrate that he has made a good faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1). Again, the applicant must demonstrate why this nationwide capacity cannot reasonably be made available by the effective date.

Additional requirements for case-by-case demonstrations are summarized in the July 19, 1991, proposal to today's rulemaking. See 55 FR 33288.

2. Commitment To Provide Protective Disposal Capacity

EPA believes that the applicant for a case-by-case extension has shown the necessary commitment to provide protective disposal capacity within the meaning of RCRA section 3004(h)(3) and 40 CFR 268.5(a)(1). These provisions require an applicant to make two showings: (1) That the proposed "disposal capacity" is "protective of human health and the environment", and (2) That the applicant has made "a binding contractual commitment to construct or otherwise provide" such capacity. The Agency construes the first phrase to mean a no migration unit. No migration findings in 40 CFR parts 148 or 268 provide for a variance to the land disposal prohibitions and, accordingly, are functionally equivalent to compliance with treatment standards under part 268. Moreover, the statute defines protective disposal capacity for proposes of RCRA §§ 3004 (d), (e), and (g) as no migration units. EPA also considers no migration capacity as protective disposal capacity for purposes of RCRA section 3004(h)(2).

With respect to showing a "binding contractual commitment", where applicants have already constructed (and, indeed, are operating) the disposal units at issue, EPA interprets the regulatory language to require objective indicia of applicant's commitment to provide this capacity. EPA's approach is in line with similar practical interpretations of regulatory language. For example, the Agency has construed the term "commenced construction" to include facilities which have completed construction but did not commence operations. See 46 FR 2344, 2346 (January 9, 1981).

EPA believes that where the Agency has concluded that a no migration petition is sufficient to propose a no migration finding, this proposed finding is legitimate indicia that the applicant is, in good faith, committed to providing protective disposal capacity for purposes of 40 CFR 268.5. See 55 FR 22520. If EPA were to require an actual no migration finding as a condition for a case-by-case extension, such a reading would effectively read the phrase "protective disposal capacity" out of RCRA 3004(h)(3) in violation of all standard tenets of statutory construction, which require that all terms be given effect when possible. The term would be read out of the statute because once the no migration petition was granted, there is no need to seek a case-by-case extension as wastes could be disposed directly in the unit. In addition, case-by-case extensions necessarily involve predictions about future capacity. For example, such predictive findings specifically include and need for permits that may not yet be issued. See 40 CFR 268.5(a)(5).

Today's case-by-case extension is based on objective indicia of the applicant's commitment to provide disposal capacity. First, the petitioner's application is based on already constructed wells. Thus, this petitioner's commitment is more definitive from petitions based solely on contracts to construct such capacity. See RCRA section 3004(h)(3). Second, the injection wells have all been permitted under both RCRA and SDWA standards, thus further demonstrating a commitment to provide this capacity. The applicant has demonstrated that only a no migration finding prevents the units from being available as protective disposal capacity. Third, today's applicant has made substantial contractual commitments in preparing the no migration petitions. Finally, EPA has a good basis for believing that this capacity will, in fact, be provided in a short period of time. Permitted hazardous waste injection wells, as a class of units, have a good record for obtaining no migration findings. EPA has already issued several no migration findings.

3. Requirements To Seek Other Alternative Capacity

The applicant's commitment to provide protective disposal capacity is not the sole basis for EPA granting a case-by-case extension. Under 40 CFR 278.5(a)(1), applicants must also make a good faith effort to seek other protective treatment, recovery, or disposal where feasible during the period that his proposed alternative capacity is not available. Such good faith efforts under § 268.5(a)(1) can be evaluated considering both the expected time period that the alternative capacity will take to become available the technical difficulties that the operator will face in bringing his waste to alternative capacity in consideration of factors in § 268.5(a)(3).

There is limited other capacity under (a)(1) to eventually handle the waste from the well operator in this proposal. However, due to logistic problems of re-tooling, re-piping, and transportation of the large volume of waste at issue, this other capacity is not reasonably available during the short period of time EPA anticipates is necessary to process final no migration approvals or denials for these wells.

4. Reasons Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date

Today's applicant has, in good faith, pursued the no migration process. The operator submitted its no migration petition in a timely manner, and has responded appropriately to Agency requests for additional information in order to make a determination on the petition.

The timing of the actual finding is beyond the applicant's control. This no migration finding is a precondition to the provision of the alternative disposal capacity. EPA has reviewed several no migration petitions in an intensive, time-consuming process. The order that decisions are made are primarily a function of Agency resources and priorities.

The well operator in today's rulemaking has documented several logistic problems that make short-term capacity not reasonably available. The facility in question involves production operations directly connected by piping, or otherwise rely on immediate disposal in on-site injection wells. In order to make the necessary adjustments, the facility would need to temporarily shutdown, perform necessary re-tooling and re-piping, and contract a transportation system to move the large volumes of waste at issue. The receiving facility would also need to make substantial adjustments to receive these large waste volumes. These factors indicate that the other capacity is not reasonably available for short-term waste management. EPA has relied on similar criteria in providing nationwide variances under RCRA section 3004(h)(2). See 55 FR 22520.

5. Response to Comments

Only one comment was received by the EPA;

Comment: Dupont commented that the proposed three month time frame for the case-by-case extension is arbitrary and that Dupont should receive the full one year time frame which was requested.

Response: The three month time frame for the case-by-case extension is not an arbitrary time frame. This time frame was based on the status of the Dupont-Orange no migration petition. The EPA proposed to approve Dupont's no migration petition on July 5, 1991. The public comment period closed on August 19, 1991. Based on this progress, the EPA believes that an extension through November 7, 1991, is adequate and that a full one year extension is unnecessary.

II. Petition

A. Facility Summary

E.I. du Pont de Nemours & Co., Inc., Orange, Texas has petitioned EPA to grant them an additional extension of the effective date of the hazardous waste injection restrictions applicable to the following wastes: California listed wastes, solvents less than one (1) percent solvent constituents, and First Third wastes.

The EPA is granting Dupont-Orange an additional extension of the August 8, 1990, effective date for the above referenced waste. This additional extension is effective through November 7, 1991. Dupont's initial case-by-case extension expired on August 7, 1991.

B. Description of Petitioning Facility

E.I. du Pont de Nemours & Co., Inc. is a chemical manufacturing company which operates five hazardous waste injection wells in Orange, Texas.

C. Case-by-Case Extension Petition Demonstrations

Dupont's application for an extension of the effective date includes the following demonstrations:

40 CFR 268.5(a)(1) Dupont has made a good-faith effort on a nationwide basis to locate and contract for adequate alternative treatment, recovery, or disposal capacity, or to establish such capacity by the effective date of the applicable restrictions.

40 CFR 268.5(a)(2) Dupont has entered into a binding contractual commitment to provide alternative treatment, recovery, or disposal capacity.

40 CFR 268.5(a)(3) Dupont has shown that lack of alternative capacity is beyond its control.

40 CFR 268.5(a)(4) Dupont has shown that there will be adequate alternative treatment, recovery, or disposal capacity for all the waste after the effective date established by the extension.

40 CFR 268.5(a)(5) Dupont has provided a detailed schedule for obtaining alternative capacity, including dates.

40 CFR 268.5(a)(6) Dupont has arranged for adequate capacity to manage the waste during the extension period.

40 CFR 268.5(a)(7) No surface impoundments or landfills will be used by Dupont to manage the waste during the extension period.

III. Agency Action

For the reasons discussed above, the Agency believes that Dupont's demonstration has satisfied all the requirements for a case-by-case extension of the August 8, 1990, effective date of the hazardous waste injection restrictions.

Therefore, EPA is granting an additional extension of the August 8, 1990, effective date of the restrictions on these wastes for Dupont-Orange. This extension is effective through November 7, 1991, or until a final decision of the applicant's no migration petition is made, but not later than November 7, 1991. (Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).)

Dated September 4, 1991.

Myron O. Knudson,

Director, Water Management Division (6W) EPA region 6.

[FR Doc. 91-22069 Filed 9-16-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 91-1152]

Comments Invited on Washington Public Safety Plan

September 12, 1991.

The Commission has received the public safety radio communications plan for Washington (Region 43).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, interested parties may file comments on or before October 25, 1991 and reply comments on or before November 12, 1991. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 91-270 Washington-Public Safety Region 43.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632-6497 or Ray LaForge, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-22461 Filed 9-17-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Australia-Pacific Coast Rate et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement: 202-010012—020.

Title: Australia-Pacific Coast Rate Agreement.

Parties:

Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck (Columbus Line)

Associated Container Transportation (Australia Limited (Pace Line).

Synopsis: The proposed amendment would add language to the Agreement to provide that discharge ports listed in appendix D of the Agreement may be served directly or indirectly.

Agreement: 202-010268—017.

Title: Australia/Eastern U.S.A. Shipping Conference.

Parties:

Hamburg-Sudamerikanische Dampfschifffahrts-Gessellschaft Eggert & Amsinck (Columbus Line)

Associated Container Transportation (Australia Limited (Pace Line).

Synopsis: The proposed amendment would add language to the Agreement to provide that discharge ports listed in Annex B of the Agreement may be served directly or indirectly.

Agreement: 203-0111271—003.

Title: U.S./Peru Discussion Agreement.

Parties:

Crowley Caribbean Transport, Inc.

Empresa Naviera Santa

Lykes Bros. Steamship Co., Inc.

Synopsis: The proposed amendment would add Compania Chilena de Navegacion Interoceanica (CCNI) and Empremar S.A. as parties to the Agreement. The parties have requested shortened review period.

Dated: September 12, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-22399 Filed 9-17-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, October 10. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The meeting is expected to begin at 9 a.m. and to continue until 5 p.m., with a lunch break from 12:30 until 2 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Status Report on Community Reinvestment Act. Discussion led by the Community Reinvestment Act Committee on how the new CRA public disclosure process is functioning with regard to public access to the evaluations, the examination process and the usefulness of information contained in the evaluations.

Home Mortgage Disclosure Act Data. Staff briefing and discussion on (1) the status of the preparation and distribution of the expanded HMDA data for 1990, and (2) on how the data are expected to assist the agencies' enforcement efforts as well as financial institutions' compliance activities.

Electronic Benefit Transfer Programs. Discussion led by the Depository and Delivery Systems Committee on possible impacts of electronic benefit transfer programs on recipients of public assistance.

Members Forum. Presentation of individual Council members' views regarding the current availability of commercial and real estate credit in their local markets.

Council Member Profiles. Remarks by Council members identifying special areas of importance and concern to their organizations regarding the provision of financial services to consumers and communities.

Committee Reports. Progress reports from Council Committees on their work and plans for 1992.

Other matters previously considered by the Council or initiated by Council members may also be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Friday, October 4, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Bedelia Calhoun, Staff Specialist, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors, of the Federal Reserve System, Washington, DC 20551, (202) 452-2412. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson, (202) 452-3544.

Board of Governors of the Federal Reserve System, September 12, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-22426 Filed 9-17-91; 8:45 am]

BILLING CODE 6210-01-M

First Alabama Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources,

decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. First Alabama Bancshares, Inc., Montgomery, Alabama; to establish Lake Federal Savings Bank, Pell City, Alabama (Interim Bank), to acquire certain assets and assume certain liabilities of St. Clair Federal Savings Bank, Pell City, Alabama, pursuant to section 4(c)(8) of the Bank Holding Company Act and the Oakar Amendment of FIRREA, and to facilitate the merger of Interim Bank with and into Bancshares' subsidiary bank, First Alabama Bank, Montgomery, Alabama.

Board of Governors of the Federal Reserve System, September 12, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-22423 Filed 9-17-91; 8:45 am]

BILLING CODE 6210-01-F

Henning Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 9, 1991.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Henning Bancshares, Inc., Henning, Minnesota; to merge with 100 percent of the voting shares of Battle Lake Bancshares, Inc., Battle Lake, Minnesota, and thereby indirectly acquire First National Bank of Battle Lake, Battle Lake, Minnesota.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Ponca Bancshares, Inc., Ponca City, Oklahoma; to become a bank holding company by acquiring 84.05 percent of the voting shares of Security Bank & Trust Company of Ponca City, Oklahoma, Ponca City, Oklahoma.

2. State National Bancshares, Inc., Wayne, Nebraska; to become a bank holding company by acquiring 80 percent of the voting shares of The State National Bank & Trust Company, Wayne, Nebraska.

Board of Governors of the Federal Reserve System, September 12, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-22424 Filed 9-17-91; 8:45 am]

BILLING CODE 6210-01-F

James P. Sprout; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 9, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. James P. Sprout, Fort Collins, Colorado, Trustee of the Louis F. Bein Trust and the Jean H. Bein Trust; to acquire 65.69 percent of the voting shares of The Berthoud Bancorp, Inc., Berthoud, Colorado, and thereby indirectly acquire The Berthoud National Bank, Berthoud, Colorado.

Board of Governors of the Federal Reserve System, September 12, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-22425 Filed 9-17-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Open Season; Thrift Savings Plan Elections

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice.

SUMMARY: The Federal Retirement Thrift Investment Board (Board) in its regulation at 5 CFR 1600.2 provides that notice will be given of the beginning and ending dates of all open seasons (as defined at 5 CFR 1600.1) which are subsequent to the open season ending on July 31, 1987. The Board's next open season will commence on November 15, 1991, and will end on January 31, 1992. The election period (as defined at 5 CFR 1600.1) covered by this open season extends from January 1 to January 31, 1992.

FOR FURTHER INFORMATION CONTACT: James B. Petrick, (202) 523-6367.

Dated: September 9, 1991.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 91-22476 Filed 9-17-91; 8:45 am]

BILLING CODE 6760-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing

Administration (HCFA), (**Federal Register**, Vol. 55, No. 7, pp. 909–910, dated Wednesday, January 10, 1990), is amended to reflect the restructuring of division level standardized functional statements for HCFA's 10 regional offices. The functional statements affected by the restructuring are the Division of Health Standards and Quality, the Division of Medicaid, and the Division of Medicare. The restructuring will not change or organizationally realign any functional responsibilities. The purpose of the restructuring is to replace the previous paragraph style format with a concise "bullet" statement format which delineates the organizational component's principal responsibilities in priority order.

The specific amendments to Part F. are described below:

• Section FP.20.D.1., Division of Health Standards and Quality (FPD(I–X)A) is amended by eliminating the functional statement in its entirety. The new functional statement reads:

1. Division of Health Standards and Quality (FPD(I–X)A).

• Assures that health care services provided under the Medicare and Medicaid programs are furnished in the most effective and efficient manner consistent with recognized professional standards of care.

• Interprets and implements health safety standards and evaluates their impact on utilization and quality of health care services.

• Determines approval and denial of all provider and supplier certification actions under the Medicare program.

• Initiates and implements remedial actions, including termination of agreements against health care facilities not in compliance with Medicare requirements.

• Makes final determination on all initial and supplemental budget requests submitted by State survey agencies.

• Monitors and evaluates State activities related to Medicare and Medicaid survey and certification.

• Oversees, monitors, and evaluates Peer Review Organizations (PROs), including recommendations for contract renewal, extension, and modification.

• Recommends approval or withholding of monthly voucher payments to PROs.

• Authorizes investigation of complaints received from the public, the Congress, the media, and other sources which allege deficiencies in the quality of care rendered by certified health care providers.

• Coordinates State survey agency activities related to sanctions and civil money penalties.

• Section FP.20.D.5., Division of Medicaid (FPD(I–X)E) is amended by eliminating the functional statement in its entirety. The new functional statement reads:

5. Division of Medicaid (FPD(I–X)E).

• Provides Federal leadership to State agencies in program implementation, maintenance, and regulatory review of State Medicaid program management activities under Title XIX of the Social Security Act.

• Assures the propriety of Federal Medicaid expenditures and, where appropriate, takes action to disallow claims.

• Consults with and provides guidance to States on appropriate matters including the interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States.

• Provides consistent policy guidance to States on Medicaid program administration the amount, duration, scope, and payment for health services under the State program.

• Monitors State agency Medicaid activities by conducting periodic program management and financial reviews to assure State adherence to Federal laws and regulations.

• Reviews, approves, and maintains official State plans and State plan amendments for medical assistance.

• Reviews, approves or recommends for disapproval, and monitors State institutional payment plans and systems (after central office concurrence for hospitals and long term care facilities).

• Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed.

• Defers payment action on questionable State claims for allowability.

• Issues orders suspending Federal financial participation on unallowable State Title XIX payments and defends disallowance actions at Departmental Appeals Board.

• Plans, directs, and coordinates the review and approval of Medicaid State agency data processing systems, proposals, modifications, operations, and contracts.

• Implements Title XIX special initiatives, such as Maternal and Child Health, Acquired Immune Deficiency Syndrome, Prepaid Health Plans, Health Maintenance Organization contracts, and other special or experimental programs and operations of major management initiatives.

• Performs Medicaid eligibility quality control reviews over State Medicaid eligibility and inspection of care practices to assure their ongoing compliance with Medicaid laws and regulations.

• Section FP.20D.6., Division of Medicare (FPD(I-X)F) is amended by eliminating the functional statement in its entirety. The new functional statement reads:

6. Division of Medicare (FPD(I-X)F).

• Directs Medicare program administration through working relationship with contractors, providers, physicians, the Social Security Administration regional offices, the Administration on Aging, the Office of Inspector General, and other local and national organizations and individuals, as required.

• Directs the review and evaluation of the effectiveness of the Medicare program.

• Directs activities in support of the Managed Care Program including technical support and oversight of Health Maintenance Organizations, and other prepaid contractors.

• Monitors all aspects of contractor performance including claims processing, coverage decisions, overpayment identification and collection, Medicare secondary payor, provider payment and audit, payment to physicians and suppliers, and electronic media claims.

• Coordinates ongoing contractor fiscal management activities, including subcontracting.

• Negotiates and approves Medicare contractor budget modifications.

• Evaluates Medicare contractor performance and prepares annual contractor evaluation report.

• Manages beneficiary, provider, and public information programs.

• Recommends renewals, non-renewals, recessions, and terminations of Medicare contracts.

Dated: July 25, 1991.

Robert A. Streimer,

Associate Administrator for Management, Health Care Financing Administration.

[FR Doc. 91–22466 Filed 9–17–91; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Program Announcement for Allied Health Project Grants

The Health Resources and Services Administration (HRSA), announces that applications will be accepted for fiscal year (FY) 1992 Allied Health Project Grants. This grant program is authorized under section 796, title VII, of the Public Health Service Act (the Act), as amended by the Health Professions

Reauthorization Act of 1988, Public Law 100-607. This authority will expire on September 30, 1991. This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. The period of Federal support will not exceed three years.

The Administration's budget request for FY 1992 does not include funding for this program. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Purposes

Section 796 authorizes the award of grants for the costs of planning, developing, establishing, operating, and evaluating projects for:

(1) Improving and strengthening the effectiveness of allied health administration, program directors, faculty, and clinical faculty;

(2) Improving and expanding program enrollments in those professions in greatest demand and whose services are most needed by the elderly;

(3) Promoting the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly through interdisciplinary training programs;

(4) Emphasizing innovative models to link allied health clinical practice, education and research;

(5) Adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics; and

(6) The recruitment of individuals into allied health professions including projects for:

(A) The identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels;

(B) The identification and recruitment of minority and disadvantaged students, including the provision of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and

(C) The coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.

Healthy People 2000 Objectives

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This program of Allied Health Project Grants is related to the priority area of Educational and Community-Based Programs.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Education and Service Linkage

As part of its long-range planning, the HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and service programs which provide comprehensive primary care services to the underserved.

Eligible Applicants

To be eligible for a grant, an applicant must be a school, university or other public or nonprofit private educational entity which provides for allied health personnel education and training.

Review Criteria

The review criteria, stated below, which were established in FY 1990 after public comment, will remain unchanged in FY 1992.

- The extent to which the proposed project meets the legislative purpose;
- The background and rationale for the proposed project;
- The extent to which the project contains clearly stated realistic and achievable objectives;
- The extent to which the project contains a methodology which is integrated and compatible with project objectives, including collaborative arrangements and feasible workplans;
- The evaluation plans and procedures for program and trainees, if involved;
- The administrative and management capability of the applicant to carry out the proposed project, including institutional infrastructure and resources;
- The extent to which the budget justification is complete, cost-effective and includes cost-sharing, when applicable; and
- Whether there is an institutional plan and commitment for self-sufficiency when Federal support ends.

In addition, the following mechanism may be applied in determining the funding of approved applications.

Special Considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Established Special Consideration

The following special consideration was established in FY 1991 after public comment and the Administration is extending it in FY 1992.

Applicants demonstrating affiliation agreements for interdisciplinary training experiences in one or more of the following: a nursing home; hospital or ambulatory care center providing substantial geriatric health care; Migrant Health Center (section 329 of the Act); Community Health Center (section 330 of the Act); Health Professional Shortage Area (section 332 of the Act); Area Health Education Center (section 781(a) of the Act); or a State or local public health or designated clinic or center serving an underserved population, or a rural health clinic or other facility with training opportunities in a rural area.

Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers;

Section 330 authorizes support for community health care services to medically underserved populations;

Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas; and

Section 781(a) authorizes support for Area Health Education Centers to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system.

The special consideration does not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for or elect the special consideration are encouraged to submit applications.

The application deadline date is January 24, 1992. Applications will be consideration as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for

submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

Questions regarding programmatic information should be directed to: Dr. Norman Clark, Program Officer, Associated Health Professions Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C-02, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6763.

Application forms will be sent to FY 1991 applicants and to those who request kits.

Requests for grant application materials and questions regarding business management issues and grants policy should be directed to: Ms. Diane Murray (D37), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C-26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6857.

Completed applications should be returned to the above address.

The standard application form (PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and Supplement) for this program has been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

The Catalog of Federal Domestic Assistance number for this program is 93.191. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: August 15, 1991.

John H. Kelso,

Acting Administrator.

[FR Doc. 91-22503 Filed 9-17-91; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on October 24-25, 1991. The meeting will be held in Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 1 p.m. to recess on October 24 and from 9 a.m. to adjournment on October 25 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public from 9 a.m. to approximately 12 Noon on October 24 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Carole A. Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-6927) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22427 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

National Institutes on Aging Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 21-22, 1991, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9 a.m. on Monday, October 21 until approximately 4 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on October 21 from 8:30 a.m. until 9 a.m. and again on October 22 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Aging, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, room 5C02, National Institutes of Health, Bethesda, Maryland 20892, (301/496-9322), will provide a summary of the meeting and a roster of committee members upon request. Dr. George R. Martin, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22428 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Board of Scientific Counselors, NIDCD

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIDCD, October 24-25, 1991, building 31C, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. to 4 p.m. on October 24, 1991 to present reports and discuss issues related to committee business. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 4 p.m. until recess on October 24, 1991 and from 8:30 a.m. until adjournment on October 25, 1991. The closed portions of the meeting will be for the review, discussion, and evaluation of the Voice and Speech

Section, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

Monica Davies, Acting Executive Secretary of the Board of Scientific Counselors, NIDCD, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301-402-1129, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22429 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting (Division of Cancer Treatment Board of Scientific Counselors)

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, October 21-22, 1991, building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 21 from 8:30 a.m. to approximately 5:45 p.m., and again on October 22 from approximately 10 a.m., until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-563, the meeting will be closed to the public on October 22 from 8:30 a.m. to approximately 10 a.m., from the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management, Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301-496-4291) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Number: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22430 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting—Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, October 21, 1991. The meeting will be held in building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public from 8:30 a.m. to 4 p.m. for concept review of proposed research projects. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public from 4 p.m. to adjournment for the review and discussion of previous site visit reports and responses, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Insitutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, Building 31, room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-3251) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22431 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting—Board of Scientific Counselors, Division of Cancer Prevention and Control

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Prevention and control, National Cancer Institute, October 17-18, 1991, Building 1, Wilson Hall, Third floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 29892.

This meeting will be open to the public on October 17 from 8:30 a.m. to 5 p.m. and on October 18 from 8:30 a.m. to approximately 1 p.m. to discuss administrative details and for the discussion and review of concepts and programs within the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on October 18 from 1 p.m. to approximately 5 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892, (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Other information pertaining to this meeting can be obtained from the

Executive Secretary, Ms. Linda M. Bremmerman, National Cancer Institute, Executive Plaza-North, room 318, National Institutes of Health, Bethesda, Maryland 20892 (301/496-8526), upon request.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: August 29, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-22432 Filed 9-17-91; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: New Routine Use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information maintained in the system of records entitled "Earnings Recording and Self-Employment Income System, HHS/SSA/OSR—09-60-0059" (Earnings Record).

The proposed routine use will permit SSA to disclose tax return information to the Department of Veterans Affairs (DVA) pursuant to section 6103(l)(7) of the Internal Revenue Code (IRC) (26 U.S.C. section 6103(l)(7)), as amended by section 8051 of Public Law No. 101-508, the Omnibus Budget Reconciliation Act of 1990 (OBRA). That amendment does not permit such disclosures to continue after September 30, 1992. The information disclosed will be used by DVA to administer various DVA programs.

We invite public comments on this publication.

DATES: The proposed routine use will become effective as proposed, without further notice, on October 18, 1991, unless we receive comments on or before that date which would warrant our preventing the routine use from taking effect. No information will be disclosed pursuant to the proposed routine use after September 30, 1992, unless otherwise specifically permitted by statute.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, 3-D-1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Green, Social Insurance Specialist, Privacy Branch, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-965-1739.

SUPPLEMENTARY INFORMATION:

I. Discussion of the Proposed Routine Use

Section 8051 of OBRA amended section 6103(l)(7) of the IRC to require the Commissioner of Social Security to disclose information obtained from tax returns or schedules filed with the Internal Revenue Service (tax return information) to DVA for the purpose of administering various programs under title 38 of the United States Code. (The programs are identified below.) The tax return information will be disclosed from SSA's Earnings Record system of records. In order to establish a routine use which allows the disclosures described below, SSA must publish a notice of the proposed routine use in the **Federal Register**. The proposed routine use provides for the following disclosure:

Upon written request, SSA will disclose tax return information to DVA for purposes of, and to the extent necessary for determining eligibility for, or the amount of, benefits under the following programs:

(a) Any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(b) Parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

(c) Health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of title 38; and

(d) Compensation paid under chapter 11 of title 38, United States Code at the 100-percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

The tax return information which may be disclosed under this paragraph includes wages, net earnings from self-employment, payments of retirement income which have been disclosed to SSA and business and employment addresses, except that information on payments of retirement income will not be disclosed for use with respect to programs described in subparagraph (d).

II. Compatibility of the Proposed Routine Use

We are proposing this routine use in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)) and our disclosure regulation (20 CFR part 401). The Privacy Act permits us to disclose information about individuals without their consents for a routine use where the information will be used for a purpose which is compatible with the purpose for which we collected the information. Section 401.310 of our regulation states that we consider health or income maintenance programs administered by other Government agencies to be programs that serve purposes which are compatible with the purposes served by the retirement, survivors, and disability programs and the supplemental security income program which we administer. We also believe that disclosure which is required by law meets the compatibility requirement for routine uses under the Privacy Act based on the obvious congressional intent that the information be used for the purposes for which its release is required by the statute. The proposed disclosures to DVA described above meet both of these compatibility criteria. The disclosures are required by section 6103(l)(7) of the IRC, as amended, and assist health and income maintenance programs serving the elderly and disabled and their survivors.

III. Effect of the Proposed Routine Use on Individuals

We will disclose information under the proposed routine use to DVA only as required by section 6103(l)(7) of the IRC. The DVA must verify independently the information obtained from us pursuant to the proposed routine use before denying, stopping, suspending, or reducing any benefit or service. We have negotiated a data exchange agreement with DVA requiring safeguards to prevent unauthorized redisclosure of, or access to, the information we will disclose under the routine use. This data exchange agreement and the actions of SSA and DVA relating to the disclosure and use of the information complies with the requirements of the Privacy Act pertaining to computer matching programs. Thus, we do not anticipate that the routine use will have any unwarranted adverse effects on the rights or privacy interests of individuals.

Dated: September 9, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

09-60-0059

SYSTEM NAME:

Earnings Recording and Self-Employment Income System, HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Systems, 6401 Security Boulevard, Baltimore, MD 21235.

Social Security Administration, Office of System Requirements, 6401 Security Boulevard, Baltimore, MD 21235.

Social Security Administration, Office of Central Records Operations, Metro West Building, 300 North Greene Street, Baltimore, MD 21201.

Records also may be located at contractor sites (contact the system manager at the address below for contractor addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has been issued a Social Security number (SSN) and who may or may not have earnings under Social Security; or any person requesting, reporting, changing and/or inquiring about earnings information; or any person having a vested interest in a private pension fund.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of every SSN holder, his/her name, date of birth, sex, and race and a summary of his/her yearly earnings and quarters of coverage; special employment codes (i.e., self-employment, military, agriculture, and railroad); benefit status information; employer identification (i.e., employer identification numbers and pension plan numbers); minister waiver forms (i.e., forms filed by the clergy for the election or waiver of coverage under Social Security Act (the Act)); correspondence received from individuals pertaining to the above-mentioned items; the replies to such correspondence; and pension plan information (i.e., nature, form, and amount of vested benefits).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a) and 205(c)(2) of the Act, the Federal Records Act of 1950 (64 Stat. 583), and the Employee Retirement Income Security Act of 1974 (Public Law 93-406).

PURPOSE(S):

This system is used for the following purposes:

- As a primary working record file of all SSN holders;
- As a quarterly record detail file to provide full data in wage investigation cases;
- To provide information for determining amount of benefits;
- To record all incorrect or incomplete earnings items;
- To reinstate incorrectly or incompletely reported earnings items;
- To record the latest employer of a wage earner;
- For statistical studies;
- For identification of possible overpayments of benefits;
- For identification of individuals entitled to additional benefits;
- To provide information to employers/former employers for correcting or reconstructing earnings records and for Social Security tax purposes;
- To provide workers and self-employed individuals with earnings statements or quarters of coverage statements;
- To provide information to Health and Human Services (HHS) Audit Agency for auditing benefit payments under Social Security programs;
- To provide information to the National Institute for Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974;
- To assist the Social Security Administration (SSA) in responding to general inquiries about Social Security, including earnings or adjustments to earnings, and in preparing responses to subsequent inquiries; and
- To store minister waivers, thus preventing erroneous payment of Social Security benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To employers or former employers, including State Security administrators, for correcting and reconstructing State employee earnings records and for Social Security purposes.

2. To the Department of the Treasury for:

(a) Investigating the alleged forgery, or unlawful negotiation of Social Security checks; and

(b) Tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code (IRC).

3. To the Railroad Retirement Board (RRB) for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

4. To the Department of Justice (DOJ) (Federal Bureau of Investigation and United States attorneys) for investigating and prosecuting violations of the Act.

5. To a contractor for the purpose of collating, evaluating, analyzing, aggregating or otherwise refining records when the SSA contracts with a private firm. (The contractor shall be required to maintain Privacy Act safeguards with respect to such records.)

6. To the Department of Energy for their study of low-level radiation exposure.

7. To a congressional office in response to an inquiry from the congressional office made at the request of the subject of a record.

8. To the Department of State for administering the Act in foreign countries through services and facilities of that agency.

9. To the American Institute on Taiwan for administering the Act in Taiwan through services and facilities of that agency.

10. To the Department of Veterans Affairs (DVA) Regional Office for administering the Act in the Philippines through services and facilities of that agency.

11. To the Department of Interior for administering the Act in the Trust Territory of the Pacific Islands through services and facilities of that agency.

12. To State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

13. To DOJ, a court or other tribunal, or another party before such tribunal when:

(a) SSA, any component thereof, or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is

compatible with the purpose for which the records were collected.

Wage and other information which are subject to the disclosure provisions of the IRC (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

14. In response to legal process or interrogatories relating to the enforcement of an individual's child support alimony obligations, as required by section 459 and 461 of the Act.

15. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to section 233 of the Act may be disclosed to a foreign country which is a part to that agreement.

16. To Federal, State, or local agencies (or agents on their behalf) for the purpose of validating SSN's used in administering cash or noncash income maintenance programs or health maintenance programs (including programs under the Act).

17. Information pertaining to wages and self-employment income may be disclosed in response to requests from State welfare agencies in accordance 26 U.S.C. 6103(l)(7) for determining an individual's eligibility for aid or services under State plans for Aid to Families with Dependent Children and the amount of such aid or services.

18. Tax return information (e.g., information with respect to net earnings from self-employment, wages, payments of retirement income which have been disclosed to SSA and business and employment addresses) may be disclosed, upon request, to officers and employees of the Department of Agriculture in accordance with 26 U.S.C. 6103(l)(7) for purposes of, and to the extent necessary in determining:

(a) An individual's eligibility for benefits, or

(b) The amount of benefits

under the Food Stamp Program established under the Food Stamp Act of 1977.

19. Tax return information (e.g., information with respect to net earnings from self-employment, wages, payments of retirement income which have been disclosed to SSA and business and employment addresses) may be disclosed, upon written request, to officers and employees of a State food stamp agency in accordance with 26 U.S.C. 6103(l)(8) for purposes of, and to the extent necessary in determining

(a) An individual's eligibility for benefits, or

(b) The amount of benefits

under the Food Stamp Program established under the Food Stamp Act of 1977.

20. Tax return information (e.g., information with respect to net earnings from self-employment, wages, payments of retirement income which have been disclosed to SSA and business and employment addresses) may be disclosed, upon written request, to appropriate officers and employees of a State or local child support enforcement agency in accordance with 26 U.S.C. 6103(l)(7) for the purpose of, and to the extent necessary in

(a) Establishing and collecting child support obligations from individuals who owe such obligations, and

(b) Locating those individuals

under a program established under title IVD of the Act (42 U.S.C. 651ff).

21. The fact that a veteran is or is not eligible for retirement insurance benefits under the Social Security program may be disclosed to the Office of Personnel Management (OPM) for its use in determining a veteran's eligibility for a civil service retirement annuity and the amount of such annuity.

22. Employee and employer name and address information may be disclosed to DOJ (Immigration and Naturalization Service) for the purpose of informing that agency of the identities and locations of aliens who appear to be illegally employed.

23. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

24. Information derived from this system may be disclosed to OPM for the purpose of computing civil service annuity offsets of civil service annuitants with military service or the survivors of such individuals pursuant to provisions of section 307 of Public Law 97–253.

25. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

26. Disclosure of tax return information will be made to OPM, upon OPM's written request, for the purpose of administering the Civil Service and Federal Employees Retirement Systems in accordance with Chapters 83 and 84 of Title 5, United States Code.

27. Upon written request, SSA will disclose tax return information to the Department of Veterans Affairs for purposes of, and to the extent necessary for determining eligibility for, or the amount of, benefits under the following programs:

(a) Any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(b) Parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

(c) Health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of title 38; and

(d) Compensation paid under chapter 11 of title 38, United States Code at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

The tax return information which may be disclosed under this paragraph includes wages, net earnings from self-employment, payments of retirement income which have been disclosed to SSA and business and employment addresses, except that information on payments of retirement income will not be disclosed for use with respect to programs described in subparagraph (d).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: Records in this system are maintained as paper forms, correspondence in manila folders on open shelving, paper lists, punchcards, microfilm, magnetic tapes, and discs with online access files.

RETRIEVABILITY:

Records in this system are indexed by SSN, name, and employer identification number.

Safeguards: Safeguards for automated records have been established in accordance with the HHS Information Resources Management Manual, Part 6, Automated Information Systems Security Program Handbook. This includes maintaining the magnetic tapes and discs within an enclosure attended by security guards. Anyone entering or

leaving this enclosure must have a special badge issued only to authorized personnel.

For computerized records electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal-oriented transaction matrix, and an audit trail. All microfilm and paper files are accessible only by authorized personnel who have a need for the information in the performance of their official duties.

Expansion and improvement of SSA's telecommunications systems has resulted in the acquisition of terminals equipped with physical key locks. The terminals also are fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminal users.

RETENTION AND DISPOSAL:

All paper forms and cards are retained until they are filmed or are entered on tape and their accuracy is verified. Then they are destroyed by shredding. All tapes, discs, and microfilm files are updated periodically. The out-of-date magnetic tapes and discs are erased. The out-of-date microfilm is shredded.

SSA retains correspondence 1 year when it concerns documents returned to an individual, denials of confidential information, release of confidential information to an authorized third party and undeliverable material, for 4 years when it concerns information and evidence pertaining to coverage, wage, and self-employment determinations or when the statute of limitations is involved, and permanently when it affects future claims development especially coverage, wage, and self-employment determinations. Correspondence is destroyed, when appropriate, by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Pre-Claims Requirements, Office of Systems Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him/her by providing his/her name, signature and SSN or, if the SSN is not known, name, signature, date and place of birth, mother's maiden name and father's name to the address shown under system manager and by referring to this system. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay.)

An individual requesting notification of records in person need not furnish any special documents of identify. Documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, driver's license, or voter registration card). An individual requesting notification via mail or telephone must furnish a minimum of his/her name, date of birth, and address in order to establish identity, plus any additional information specified in this section. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Also, requesters should reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

RECORD SOURCE CATEGORIES:

SSN applicants, employers and self-employed individuals; DOJ (Immigration and Naturalization Service); the Department of Treasury (Internal Revenue Service); an existing system of records maintained by SSA, the Master Beneficiary Record (09-60-0090); correspondence, replies to correspondence, and earnings modifications resulting from SSA internal processes.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 91-22375 Filed 9-17-91; 8:45 am]

BILLING CODE 4190-29

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-4351-08]

Shoshone District Advisory Council and Grazing Advisory Board; Meetings

AGENCY: Bureau of Land Management (BLM); Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed topics for a meeting of the Shoshone (Idaho) District Advisory Council and the District Grazing Advisory Board.

DATES: The District Advisory Council will meet Thursday, October 24, 1991. The District Grazing Advisory Board will meet Wednesday, October 30, 1991.

ADDRESSES: BLM Shoshone District Office, 400 West F Street, Shoshone, ID 83352.

FOR FURTHER INFORMATION CONTACT: District Manager May Gaylord, P.O. Box 2-B, Shoshone, ID 83352. Telephone (208) 886-2206 or FTS 554-6110.

SUPPLEMENTARY INFORMATION: The proposed topics for the meetings include the following items:

District Advisory Council

1. Bennett Hills Resource Management Plan update.
2. Tour of the Thorn Creek Fire Rehabilitation.
3. Any other items of interest.

District Grazing Board

1. Bennett Hills Resource Management Plan update.
2. Review of Range Improvement Projects for Fiscal Year 1992 and 1993.
3. Greenstripping projects scheduled for construction in Fiscal Year 1992.
4. The Interior Appropriations Bill and its implications for range improvement funding.
5. Any other items of interest.

The Shoshone District Advisory Council is established under section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; U.S.C. 1701 et seq.) as amended. Operation and administration of the Council will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. appendix 1) and Department of Interior regulations, including 43 CFR part 1784. Operation and administration of the Grazing Advisory Board will be in accordance with the Federal Advisory Council Committee Act of 1972 (Pub. L. 92-463; U.S.C., appendix 1) and Department of Interior regulations, including 43 CFR part 1984.

The meetings are open to the public. Anyone may present oral statements or may file a written statement with the District Management regarding matters on the agenda. Oral statements will be limited to ten minutes.

Anyone wishing to make an oral statement should notify the District Manager by October 21, 1991. Records of the meetings will be available in the Shoshone District Office for public

inspection or copying within 30 days after the meetings.

Dated: September 9, 1991.

Mary C. Gaylord,

District Manager.

[FR Doc. 91-22417 Filed 9-17-91; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Mines

Meeting of the Advisory Committee on Mining and Mineral Resources Research

The Advisory Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Tuesday, October 29, 1991, in the Horn Island Room, Holiday Inn, 2400 Beach Road, Biloxi, Mississippi 39531. An integral part of the meeting is a review of the facilities and equipment of the Marine Minerals Generic Mineral Technology Center on Wednesday morning, October 30, at the docks of the Marine Education Center, 115 Beach Road, Biloxi. The primary purposes of the meeting are the review of the Marine Minerals Technology Generic Mineral Technology Center and the completion and signing of the Report to Congress/National Plan. The proposed agenda is:

1. Welcome and introductions.
2. Approval of the minutes of the meeting of October 10, 1991.
3. Review and approval of the Report on the Review of the Respirable Dust Generic Mineral Technology Center.
4. Review of the Marine Minerals Technology Generic Mineral Technology Center.
5. Consideration of a draft report on the review of the Marine Minerals Generic Mineral Technology Center.
6. Approval and signing of the Report to Congress/National Plan.
7. New business.

This meeting is open to the public with seating for visitors on a first-come, first-served basis. Written statements concerning agenda subjects and the operation of the Mineral Institute program are welcome. Visitors having written statements to put before the Committee or who wish to address the Committee should inform Dr. Ronald A. Munson, Chief, Office of Mineral Institutes, Bureau of Mines, Mail Stop 1020, 2401 E Street NW., Washington, DC 20241, phone (202) 634-1328, FAX (202) 634-2208, BITNET MININSTS @ GWUVM, no later than noon, Friday, October 25, 1991.

Dated: September 13, 1991.

T.S. Ary,

Director.

[FR Doc. 91-22443 Filed 9-17-91; 8:45 am]

BILLING CODE 4310-53-M

Meeting of the Advisory Committee on Mining and Mineral Resources Research

The Advisory Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Thursday, October 10, 1991, in the Secretary's Conference Room (room 5160), Interior Building, 1849 C Street, NW., Washington, DC. The primary purpose of the meeting is the preparation of the annual report of the Committee to the Secretary, the President, and Congress. The proposed agenda is:

1. Welcome and introductions.
2. Approval of the minutes of the meeting of April 2, 1991.
3. Review of legislation of interest to the Committee.
4. Review and approval of 1991 grants.
5. Review and approval of the Report on the Review of the Communication Generic Mineral Technology Center.
6. Review and discussion of the Interim Report on the Respirable Dust Generic Mineral Technology Center.
7. Annual report.
8. New business.

This meeting is open to the public with seating for visitors on a first-come, first-served basis. Written statements concerning agenda subjects and the operation of the Mineral Institute program are welcome. Visitors having written statements to put before the Committee or who wish to address the Committee should inform Dr. Ronald A. Munson, Chief, Office of Mineral Institutes, Bureau of Mines, Mail Stop 1020, 2401 E Street NW., Washington, DC 20241, phone (202) 634-1328, FAX (202) 634-2208, BITNET MININSTS @ GWUVM, no later than noon, Wednesday, October 9, 1991.

Dated: September 11, 1991.

T S Ary,

Director.

[FR Doc. 91-22444 Filed 9-17-91; 8:45 am]

BILLING CODE 4310-53-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The justification for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the justification and related information may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the bureau clearance officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone 202-395-7340.

Title: Information Collection Related to Delegation of Authority to States.

Abstract: The Secretary of the Interior is authorized to enter into agreements delegating to States the authority and responsibility for conducting royalty inspections, audits, and investigations with respect to Federal and Indian lands within the State. To be considered for a delegation of authority, the State must submit a petition to the Secretary detailing the State's ability to comply with delegation requirements. While working under a delegation of authority, the State must submit quarterly progress reports and quarterly vouchers claiming 100 percent reimbursement for the cost of eligible activities.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: States.

Estimated Completion Time: 302 hours.

Annual Responses: 9.

Annual Burden Hours: 2,718.

Bureau Clearance Officer: Dorothy Christopher 703-787-1239.

Dated: June 26, 1991.

Lucy R. Querques,

Acting Associate Director for Royalty Management.

[FR Doc. 91-22418 Filed 9-17-91; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 7, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC

20013–7127. Written comments should be submitted by October 3, 1991.

Carol D. Shull,

Chief of Registration, National Register.

NEW MEXICO

Eddy County

Sipple—Hard Building, 331 W. Main St., Artesia, 91001503

NEW YORK

Tompkins County

Cascadilla School Boathouse, S. shore of Cayuga Lake at the mouth of Fall Cr., Stewart Park, Ithaca, 91001498

PUERTO RICO

Ponce Municipality

Hacienda Buena Vista Agricultural Museum, PR 10, Kilometer 16.8, N of Corral Viejo, Bo. Magueyes, Corral Viejo vicinity, 91001499

San Juan Municipality

House at 659 Concordia Street, 659 Concordia St., Miramar, 91001501

House at 663 La Paz Street, 663 La Paz St., Miramar, 91001500

House at 665 McKinley Street, 665 McKinley St., Miramar, 91001502

SOUTH CAROLINA

Bamberg County

Copeland House, SC Secondary Rd. 389, .3 mi. S of jct. with SC 64, Ehrhardt vicinity, 91001494

WASHINGTON

Chelan County

Ruby Theater (Movie Theaters in Washington State MPS), 135 E. Woodin Ave., Chelan, 91001495

Lewis County

St. Helens Hotel (Chehalis MPS), 440 N. Market Blvd., Chehalis, 91001497

[FR Doc. 91–22408 Filed 9–17–91; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation 337–TA–337–TA–327]

Certain Food Trays With Lockable Lids; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Par-Pak, Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on September 13, 1991.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: September 13, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–22486 Filed 9–17–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 303–TA–21 (Final)]

Gray Portland Cement and Cement Clinker From Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 303–TA–21 (Final) under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of gray portland cement and cement clinker, provided for in subheadings 2523.29.00 and 2523.10.00 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the act (19 U.S.C 11671d(a)(1)), Commerce has extended the date for its final determination to coincide with that to be made in the ongoing antidumping investigation on gray portland cement and cement clinker from Venezuela. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for October 28, 1991).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and C (19 CFR part 2007, as amended by 56 F.R. 11918, Mar. 21, 1991).

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205-1810. Persons with mobility impairments who will need special assistance in gaining acces to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Venezuela of gray portland cement

and cement clinker. The investigation was requested in a petition filed on May 21, 1991, by the Ad Hoc Committee of Florida Producers of Gray Portland Cement, Washington, DC.

Participation in the Investigation and Public Service List

Persons wishing to particpate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: September 10, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-22487 Filed 9-17-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-313]

Tuna; Current Issues Affecting the U.S. Industry

AGENCY: United States International Trade Commission.

ACTION: Notice of investigation, public hearing, and request for comments.

EFFECTIVE DATE: September 5, 1991.

SUMMARY: Following the receipt on July 29, 1991, of a request from the Committee on Finance, U.S. Senate, the Commission instituted investigation No. 332-313 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing the following, to the extent possible, on current issues affecting the U.S. tuna industry:

1. A discussion of the "dolphin-safe" issue, including its background, relevant company policies and Government legislation, relevant treaty obligations of the United States as a signatory to the Inter-American tropical Tuna Commission and the General Agreement on Tariffs and Trade, and an analysis of the effects of the dolphin-safe issue on U.S. tuna production, trade, and consumption;

2. A discussion of international fishery access issues relating to tuna, including a discussion of the treatment of tuna in the U.S. and foreign fishery conservation zones, fishery access treaties and negotiations, and other relevant information;

3. A discussion of recent technological developments, such as the domestic processing of imported tuna loins, with a description of the effect of such developments on U.S. tuna production and trade; and

4. A profile of the U.S. tuna industry and market, including information on levels and trends in U.S. production, consumption, trade, and prices for both domestic and raw tuna, the number of operations, employment and wages, capacity utilization, financial experience, sources of raw tuna used by the processing sector, sources of imported canned and raw tuna, productivity, and changes in industry structure such as ownership changes.

As requested by the Finance Committee, the Commission will seek to report the results of its investigation by July 31, 1991

FOR FURTHER INFORMATION CONTACT: Roger Corey ((202) 205-3327), Agriculture Division, Office of Industries, U.S. International Trade Commission. For information on the legal aspects of this investigation, contact William Gearhart ((202) 205-3091) of the Office of the General Counsel. Hearing-impaired persons can obtain information on this investigation by contacting the Commission's TDD terminal on (202) 205-1810.

PUBLIC HEARING: A public hearing in connection with this investigation will be held at a time and place to be announced. All persons will have the right to appear by counsel or in person, to present information, and to be heard.

WRITTEN SUBMISSIONS: Interested persons may submit written statements concerning the investigation. To be assured of consideration, written statements must be received by the close of business on April 15, 1992. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform to the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E St. SW. Washington, DC 20436.

Issued: September 6, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-22488 Filed 9-17-91; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) will be submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Darlene Proctor (202) 275-7322. Comments regarding this information collection should be addressed to Darlene Proctor, Interstate Commerce Commission, Room 2203, Washington, DC 20423 and to Wayne Brough, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Type of Clearance: New Collection.

Bureau/Office: Office of Proceedings.

Title of Form: Requirement that maps be submitted in all Abandonment Exemption proceedings.

OMB Form Number: 3120-.

Agency Form No.: N/A.

Frequency: At discretion of Applicant.

No. of Respondents: 139.

Total Burden Hours: 1 hour per response. 139 Estimated total Annual Burden hours.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22400 Filed 9-17-91; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 398 (Sub-No. 22)]

Intrastate Rail Rate Authority—New Mexico

AGENCY: Interstate Commerce Commission.

ACTION: Extension of provisional recertification.

SUMMARY: By decision served March 13, 1990, the Commission granted 180-day provisional recertification for New Mexico, through its State Corporation Commission, to regulate intrastate rail rates, practices, and procedures pending filing of its application for recertification pursuant to State Intrastate Rail Rate Authority, 5 I.C.C.2d 680 (1989). On September 13, 1990, and again on March 18, 1991, the Commission extended the provisional recertification for another 180 days. Pursuant to a request from the State, the Commission grants another extension so that New Mexico can complete modifications of its procedures and prepare an application for recertification.

DATES: New Mexico's provisional recertification is extended for 180 days from September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245. [TDD for hearing impaired: (202) 275-1721.]

Decided: September 13, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22404 Filed 9-17-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 389)]

CSX Transportation, Inc.; Abandonment Between Dayton and Arcanum in Darke, Preble, and Montgomery Counties, OH; Findings

The Commission has issued a certificate authorizing CSX Transportation, Inc. to abandon 28.49-miles of rail line: (a) Between milepost 2.12, at Dayton, and milepost 26.43, at Arcanum; and (b) Valuations Stations, 2440+74 and 2661+52, at Arcanum, in Darke, Preble, and Montgomery Counties, OH. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22401 Filed 9-17-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-No. 69X)]

Union Pacific Railroad Co.; Abandonment Exemption in Sarpy County, NE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Union Pacific Railroad of its Old Main Line (now Millard Industrial Lead) between mileposts 16.25 and 17.60, a distance of approximately 1.35 miles, in Sarpy County, NE, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 18, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 30, 1991, petitions to stay must be filed by October 3, 1991, and petitions for reconsideration must be filed by October 15, 1991. Requests for a public use condition must be filed by September 30, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB-33 (Sub-No. 69X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(1) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street #830, Omaha, NE 68179.

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245, [TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.]

Decided: September 11, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22402 Filed 9-17-91; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications Service Priority System Oversight Committee; Meeting

The second meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Thursday, October 10 and Friday, October 11, 1991. The meeting will be held at the Citadel, 171 Moultrie Street, Charleston, South Carolina, in the Mark Clark Hall, room 230. The agenda is as follows:

Day 1

A. Approval of Bylaws.
B. Discussion of State and Local Issues.
C. Report of the TSP Ad Hoc Committee.

Day 2

A. Sponsorship.
B. TSP Program Office Report.
C. State Governor Delegation of Invocation Authority.

Anyone interested in attending should notify LtCol Paul Currie, (703) 692-9274, or Mr Tom Bates, (703) 692-2108. Also if anyone desires to make a presentation, please contact LtCol Currie and Mr. Bates by COB, October 2, 1991.

Beverly Sampson,

Federal Register Liaison Officer.

Dennis I. Parsons,

Captain, USN Assistant Manager NCS Joint Secretariat.

[FR Doc. 91-22407 Filed 9-17-91; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Challenge/Advancement Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Challenge/Advancement Advisory Panel (FY 92 Phase II Advancement Grant Section) to the National Council on the Arts will be held on October 3-4, 1991 from 9 a.m.-5:30 p.m. in room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 3 from 9 a.m.-10 a.m. The topic will be introductions.

The remaining portions of this meeting on October 3 from 10 a.m.-5:30 p.m. and October 4 from 9 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: September 16, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-22643 Filed 9-17-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 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 August 23, 1991 through September 6, 1991. The last biweekly notice was published on September 4, 1991 (56 FR 43801).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For 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 amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. 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. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 18, 1991, 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 20555 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 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 fifteen (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 fifteen (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.

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.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for 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 20555, and at the local public document room for the particular facility 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 amendments request: August 27, 1991

Description of amendments request: The proposed amendment would revise the Technical Specifications (TS) for both Units 1 and 2 to increase the specified snubber functional testing and service life monitoring surveillance intervals to accommodate the 24-month fuel cycles currently in use at Calvert Cliffs. This requested change is based on a history of low snubber failure rates and an effective snubber maintenance program. As requested in Generic Letter (GL) 91-04, "Changes In Technical Specification Surveillance Intervals To Accommodate a 24-month Fuel Cycle," the licensee provided an evaluation in support of the change which concludes that the effect on safety is small and does not invalidate any assumption in the plant licensing basis. Additionally, an update is requested to the Bases for Specification 4.0.2 to reflect the guidance provided in the recently issued GL 91-04.

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) Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The snubbers at Calvert Cliffs have been highly reliable as evidenced by a comparison of failure rates with the industry average. Also, [as indicated by industry data] the typical failure mechanism is not time dependent, but is due to outside influences, such as poor installation, failure to maintain proper fluid level and purity, or an ineffective seal maintenance program. Further, the small increase in the surveillance interval is expected to be offset by reducing the number of shutdowns and potential challenges to safety systems that would be required to conduct the functional testing on an 18-month basis. The change to the service life monitoring interval is essentially administrative since the program assures the indicated operating life of the snubber will not be exceeded prior to the next review. Therefore, the proposed change does not involve a significant increase in the

probability of an accident previously evaluated.

Also, the change in the functional testing and service life monitoring frequency does not impact the response of any equipment to previously analyzed accidents. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

(2) Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The revised testing interval will continue to demonstrate the ability of the equipment to provide dynamic load support during and following a seismic event. No new equipment is being added to the plant and no change is being made in the way existing equipment is being operated or maintained. Therefore, the proposed increase in the snubber functional testing and service life monitoring intervals does not create the possibility of a new or different type of accident from any accident previously evaluated.

(3) Would not involve a significant reduction in a margin of safety.

The proposed extension of the snubber functional testing and service life monitoring intervals continues to provide protection of the functional reliability of the systems which the snubbers support. The testing program continues to provide incentive for proper maintenance of the snubbers. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC. 20037.

NRC Project Director: Robert A. Capra

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 amendments request: August 27, 1991

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS), 4.4.9.3.1, for both units. The revision deletes the designation of the power operated relief valves (PORVs) as Category C valves for the American Society of Mechanical Engineers (ASME) Code, Section XI, Inservice Testing (IST) Program requirements. The surveillance requirements of TS 4.4.9.3.1 are retained and the PORVs are required to be tested in accordance with the currently-approved IST Program pursuant to TS 4.0.5.

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) Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Pressurizer power operated relief valves provide overpressure protection during low temperature operation. The change to the Technical Specifications would delete the specific categorization for ASME Section XI testing listed in the surveillance requirements. However, the valves would continue to be tested in accordance with an approved inservice testing program. Therefore, the change would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The change would delete the specific Category C designation in the surveillance requirements, but testing would continue to be conducted in accordance with previously approved methods. The proposed will not represent a change in the configuration or operation of the plant. Specifically, no new hardware is being added to the plant, no existing equipment is being modified, nor are any significantly different types of operations being introduced. Therefore, the change would not create the possibility of a new or different type of accident from any accident previously evaluated.

(3) Would not involve a significant reduction in a margin of safety.

The margin of safety is provided through the capability of the power operated relief valves to provide overpressure protection during low temperature operation. This margin is maintained by continuing to test the valves in accordance with an approved program. Therefore, the change would 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 amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC. 20037.

NRC Project Director: Robert A. Capra

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 amendments request: August 27, 1991, as superseded by letter dated August 30, 1991.

Description of amendments request: The proposed amendment would revise the Technical Specification (TS) Table 3.4.2 for both Units 1 and 2 to allow the Safety Injection Actuation Signal (SIAS) logic that starts the Emergency Diesel Generators (EDGs) to be moved to a different subchannel of the SIAS. This change would allow the test procedures to be simplified, reduce the required resources needed to implement the EDG logic testing, and result in an overall improvement of the EDG logic testing. TS Table 3.4.2, Notes 3 through 6, wording would be changed from "may-be" to "are". These notes identify the logic circuits which are exempted from testing during power operation. Finally, the change would delete TS 3/4.6.1.8 which provide limiting conditions for operation (LCO) and surveillance requirements for the containment vent isolation valves. The deletion of these requirements was approved in TS Amendment Nos. 115 and 98 for Units 1 and 2, respectively. This approval was conditioned on the availability of automatic containment radiation isolation signals being available to isolate the containment vents. The required automatic isolation signals are currently available and operational for both units.

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:

(i) Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

No change is being made to any accident initiators or mitigation features or assumptions. No relaxation of the testing is being sought. The Engineered Safety Features Actuation System (ESFAS) and the engineered safety features will continue to operate as described in the safety analysis. This change is administrative in that it only moves a design feature from one acceptable subchannel of the safety injection actuation logic to another. The change in the wording of Notes 3-6 is only administrative in nature, in that is simply clarifies the current, NRC-approved status of test exemptions for ESFAS logic circuits. Deletion of the containment vent system requirements administratively fulfills a previously approved amendment.

(ii) Would not create the possibility of a new or different type of accident from any accident previously evaluated.

No significant change in plant equipment design is being implemented, and no new interactions of the affected equipment have been identified. The Engineered Safety Features Actuation System and the engineered safety features will continue to operate as described in the safety analysis. This change is administrative in that it only moves a design feature from one acceptable subchannel of the safety injection actuation signal to another, and the deletion of the containment vent system requirements administratively fulfills a previously approved amendment.

(iii)Would not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature and serves only to assure continued compliance with the bases of the Technical Specifications. Deletion of the containment vent system requirements administratively fulfills a previously approved amendment. Therefore, this change does not lead to any 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC. 20037.

NRC Project Director: Robert A. Capra

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: August 9, 1991

Description of amendments request: The proposed amendment to the Zion Station, Units 1 and 2, Technical Specifications would delete the Engineered Safeguards Equipment Actuation Test table and relocate portions of the table to other sections. The proposed change is based upon guidance provided in NRC Generic Letter 91-08.

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 following evaluation is provided for the three categories of the significant hazards consideration standards:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes will not result in any hardware changes. The components listed in the affected tables are not assumed to be initiators of analyzed events. Components listed in the affected tables are assumed in the mitigation of accident and transient events. The removal of tabular engineered safeguards actuated component listing from the Technical Specifications does not impact affected component OPERABILITY requirements. Technical Specifications will continue to require the engineered safeguards actuation system, including the actuated components, to be OPERABLE and maintain the OPERABILITY requirements for AOV-S18870A and AOV-S18870B. Action statements and surveillance requirements for the engineered safeguards actuation system, including actuated components will also remain in Technical Specifications. The tabular engineered safeguards actuated component lists will be relocated into the FSAR controlled by 10 CFR 50.59. The information in the component listing is also adequately addressed by the implementing surveillance procedures which are controlled by 10 CFR 50.59 and subject to the change control provisions specified in the Administrative Controls Section of the Technical Specification Section (6.2.1.G). The change, involving this relocation of the tabular component listing, is administrative in nature. The change, involving deletion of the allowance to remove valves AOV-S18870A and AOV-S18870B from Technical Specifications, represents an additional restriction on plant operations. Therefore, these changes do not involve a significant 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 changes, which involve deletion of tabular component list and the deletion of the allowance to remove AOV-S18870A and AOV-S18870B from Technical Specifications, do not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed changes involving deletion of a tabular component list will not impose any different requirements and adequate control of information will be maintained via the 10 CFR 50.59 process. The proposed change deleting the allowance to remove AOV-S18870A and AOV-S18870B from Technical Specifications is required to ensure operability of these components upon completion of the BIT removal modification. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes will not reduce a margin of safety because they have no impact on any safety analysis assumption. The Technical Specifications continue to require the engineered safeguards actuation system, including actuated components, be OPERABLE regardless of whether they are specified in a tabular list in the Technical Specifications. Additionally, the 10 CFR 50.59 process used to control changes to the FSAR and surveillance procedures (containing the relocated component list) is more stringent in that more conservative questions than those asked by the 10 CFR 50.92 process must be addressed. Therefore, this 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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: August 9, 1991

Description of amendments request: The proposed amendment would remove the containment isolation valve tables and the associated table references from the Technical Specifications for Zion Station, Units 1 and 2. The proposed change is in response to the guidance provided in NRC Generic Letter 91-08.

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 following evaluation is provided for the three categories of the significant hazards consideration standards:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware changes. The containment isolation valves listed in the affected tables are not assumed to be initiators of analyzed events. Containment isolation valves listed in the affected tables are assumed in the mitigation of accident and transient events. The removal of tabular component listings from the Technical Specifications does not impact affected containment isolation valve OPERABILITY requirements. Technical Specifications will continue to require the containment isolation valves to be

OPERABLE. Action statements and surveillance requirements for the containment isolation valve tables will also remain in Technical Specifications. The containment isolation valve tables will be relocated into the FSAR controlled by 10 CFR 50.59. In addition the containment isolation valves are adequately addressed in existing surveillance procedures which are controlled by 10 CFR 50.59 and subject to the change control provisions specified in the Administrative Controls Section of the Technical Specification (Section 6.2.1.G). Therefore, this change is administrative in nature. The allowance to open locked or sealed closed containment isolation valves under administrative controls was previously approved by the NRC for Zion Station Units 1 and 2. The incorporation of this allowance into Technical Specifications is also administrative in nature. The revision to the dual function containment isolation valve OPERABILITY requirements is consistent with the definition of OPERABLE-OPERABILITY and assures both the ECCS and containment isolation functions of dual function valves are appropriately maintained. This change to the dual function containment isolation valve OPERABILITY requirements represents an additional restriction on plant operations. As such, these changes do not involve significant increases 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 changes, which involve deletion of containment isolation valve tables from the Technical Specifications, incorporation of the NRC approved allowance to open locked or sealed closed containment isolation valves, and revision to dual function containment isolation valve OPERABILITY requirements do not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed changes which involve deletion of containment isolation valve tables and incorporation of the allowance to open containment isolation valves under administrative controls, will not impose any different requirements and adequate control of information will be maintained. The change which modifies dual function containment isolation valve requirements achieves consistency with the definition of OPERABILITY and ensures both the ECCS and containment isolation functions of dual function valves are appropriately maintained. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes will not reduce a margin of safety because they have no impact on any safety analysis assumption. The Technical Specifications continue to require the affected containment isolation valves be OPERABLE regardless of whether they are specified in the Technical Specifications and also ensure dual function valves are maintained OPERABLE consistent with the definition of OPERABLE-OPERABILITY. The Technical Specifications also establish controls for the opening of locked or sealed closed containment isolation valves consistent with existing NRC approved controls for Zion Station Units 1 and 2. Since any future changes to the listing of containment isolation valves in the FSAR and surveillance procedures will be evaluated per the requirements of 10 CFR 50.59, no reduction (significant or insignificant) in a margin of safety will be allowed. Therefore, this change does not involve 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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: August 9, 1991

Description of amendments request: The proposed amendment would revise the Technical Specifications for Zion Station, Units 1 and 2. Specifically, several component lists would be deleted from the Technical Specifications in response to the guidance provided in NRC Generic Letter 91-08.

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 following evaluation is provided for the three categories of the significant hazards consideration standards:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will not result in any hardware or operating changes. The components listed in the affected tables are not assumed to be initiators of analyzed events. Components listed in the affected tables are assumed in the mitigation of accident and transient events. The removal of tabular component listings from the Technical Specifications does not impact affected component OPERABILITY requirements. Technical Specifications will continue to require the components to be OPERABLE. Action statements and surveillance requirements for the components will also remain in Technical Specifications. The tabular component lists will be relocated into the FSAR controlled by 10 CFR 50.59. In addition, the components listed in the tables are adequately addressed in existing surveillance procedures which are controlled by 10 CFR 50.59 and subject to the change control provisions specified in the Administrative Controls Section of the Technical Specifications (Section 6.2.1.G). Therefore, this change is administrative in nature and does not involve a significant 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, which involves deletion of tabular component lists from the Technical Specifications, does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different requirements and adequate control of information will be maintained. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Zion Nuclear Generating Station.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumption. The Technical Specification definition of OPERABILITY continues to require the affected components be OPERABLE regardless of whether they are specified in the Technical Specifications. Additionally, the 10 CFR 50.59 process used to control changes to the FSAR and surveillance procedures (containing the relocated component lists) is more stringent in that more conservative questions than those asked by the 10 CFR 50.92 process must be addressed. Therefore, this change does not involve 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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 14, 1991, as supplemented July 17, 1991

Description of amendment request: The proposed amendment was initiated pursuant to 10 CFR 50.59 as an unreviewed safety question and requests a relief from the Final Safety Analysis Report (FSAR) requirement to include passive component failure when determining the radiological consequences of a design basis loss-of-coolant accident. The request is specific to possible engineered safety feature valve leakage which could result in a higher than analyzed radioactive release through the safety injection and refueling water tank (SIRWT) vent during the recirculation phase after a maximum hypothetical accident (MHA).

Specifically, the proposed amendment requests that the Palisades Facility Operating License be amended by granting relief from the FSAR requirement to perform the MHA analysis in accordance with the Standard Review Plan (SRP), Section 15.6.5, Appendix B, Subsection II(1) which specifies that leakage as a result of passive component failure is included in determination of the radiological consequences of a design basis loss-of-coolant accident. It is requested that this relief remain in place until further analysis or plant modifications provide conformance with the SRP, but no later than startup from the beginning of cycle 10.

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 licensee has determined that the change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Continued operation of the plant does not involve a significant increase in the probability of an accident previously evaluated because the presence of leakage from the safeguards pumps in the small amounts of concern cannot cause or influence the probability of an accident.

The consequences of an accident are potentially increased by leakage through the valves to the SIRW tank. Given the foregoing discussion, the consequences of any Design Basis Accident, except the MHA, is expected to remain within acceptance limits. The calculated consequences of the MHA could exceed the dose limits for the plant but not significantly because the conservatisms that exist in the present MHA analysis, combined with the simplifying conservative assumptions made in determining the effect of the valve leakage, are believed to result in an overestimation of the actual MHA dose that a detailed calculation will determine. Also, there is no indication or expectation that gross leakage does exist through these valves.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated;

The inability to measure the leakage through these valves or the possibility that small leakage might exist does 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 inability to measure the leakage through these valves or the possibility that small leakage might exist could possibly reduce the margin of safety. The dose consequences are increased by the additional radioactivity assumed to be released from the SIRW tank but the increase would not be significant because of the reasons previously stated. The consequences from all of the Design Basis Accidents are expected to be below limits. The allowed leakage can be increased by removing conservatisms in the analysis and there is no reason to believe that gross leakage exists.

Therefore, continued operation of the plant with the exact leakage rate of these valves unknown does not represent 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 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: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: November 14, 1990

Description of amendment request: The proposed amendment deletes license conditions and other provisions of the Operating License which have been completed.

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 Proposal does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment solely removes Fermi 2 Operating License provisions which have been satisfactorily completed. As such, the change is strictly administrative and has no effect on any previously evaluated accident scenario.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the change is strictly administrative and thus cannot create a new accident initiating mechanism.

(3) Involve a significant reduction in a margin of safety. The change is strictly administrative since it removes provisions from the license which have been previously completed, and therefore does not have any impact on any safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: L. B. Marsh.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: June 26, 1991

Description of amendment request: This amendment would modify the Technical Specifications (TS) to reflect fuel reloading for McGuire Unit 1 Cycle 8 operation with fuel manufactured by the B&W Fuel Company (BWFC Mark-BW fuel assemblies). Cycle 8 operation would then be based on a mixed core containing 76 Mark-BW fuel assemblies and 121 Westinghouse Optimized Fuel Assemblies (OFA). The TS would be modified to accommodate the influence of the Cycle 8 core design on power peaking, reactivity, and control rod worths in conjunction with changes in the reload analysis methodology. The changes in reload analysis methodology are documented in B&W and Duke Power Company (DPC) topical reports that have either been approved or are currently under review by the staff.

The current TS will continue to apply to Unit 1, and as such, separate sections applicable to the individual units will be created to accommodate differences resulting from the Unit 1 reload with Mark-BW fuel. The proposed changes to the Unit 1 TS include changes to the Safety Limits (TS 2.1 and 2.2) and Power

Distribution Limits (TS 3/4.2.1, 3/4.2.2, 3/4.2.3, 3/4.2.4, and 3/4.2.5) that generally stem from the use of new DPC methods, the use of different critical heat flux (CHF) correlations, a new thermal Design DNBR (departure from nucleate boiling ratio) Limit of 1.55, and revised figures and surveillances to implement the new methods. In addition, the licensee proposed changes to TS Tables 2.2-1, 3.3-1, 3.3-2, and 4.3-1 to remove the power range neutron flux negative rate trip; to TS 3/4.4.1 "Reactor Coolant Loops and Coolant Circulation" to require three operable reactor coolant loops in Mode 3; to TS 3/4.5.1 "Accumulators" to increase the required boron concentration; to TS 3/4.5.2 "ECCS Subsystems - Tavg [greater than or equal to] 350° F" to revise ECCS pump performance requirements; to TS 3/4.4.2 "Safety Valves" and TS Table 3.7-3 to revise pressurizer and main steam safety setpoint tolerances; to TS Table 3.3-4 to revise the low steam line pressure setpoint; to TS Table 3.3-5 to revise the response times for feedwater and main steam isolation; to TS 3/4.7.1.4 "Main Steam Line Isolation Valves" to revise the permissible stroke time; to TS 6.9.1.9 "Core Operating Limits Report" to reflect the application of the new methods; and to TS Table 3.1-1 to revise the list of accidents requiring reevaluation due to an inoperable rod cluster control assembly.

A more detailed description of the proposed changes can be found in the licensee's application dated June 26, 1991.

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 in each of the respective sections I. through IX. identified below:

[I. Safety Limits (TS 2.1, 2.2) and Power Distribution (TS 3/4.2.1, 3/4.2.2, 3/4.2.3, 3/4.2.4, 3/4.2.5)]

For the reload-related Technical Specifications the probability or consequences of an accident previously evaluated is not significantly increased.

A LOCA evaluation for operation of McGuire Nuclear Station with Mark-BW fuel has been completed (BAW 10174, Mark-BW Reload LOCA Analysis for the Catawba and McGuire Units). Operation of the station while in transition from Westinghouse supplied OFA fuel to B&W supplied Mark-BW fuel is also justified in this topical.

BAW 10174 demonstrates that McGuire Nuclear Station continues to meet the criteria of 10 CFR 50.46 when operated with Mark-BW fuel. Large Break LOCA calculations completed consistent with an approved evaluation model (BAW 10168P and revisions) demonstrate compliance with 10 CFR 50.46 for breaks up to and including the double ended severance of the largest primary coolant pipe. The small break LOCA calculations used to license the plant during previous fuel cycles are shown to be bounding with respect to the new fuel design. This demonstrates that the plant meets 10 CFR 50.46 criteria when the core is loaded with Mark-BW fuel.

During the transition from Westinghouse OFA fuel to Mark-BW fuel both types of fuel assemblies will reside in the core for several fuel cycles. Appendix A to BAW-10174 demonstrates that results presented above apply to the Mark-BW fuel in the transition core, and that insertion of the Mark-BW fuel will not have an adverse impact on the cooling of the Westinghouse fuel assemblies.

Duke Power Company's Topical Reports DPC-NE-3000, DPC-NE-30001, and DPC-NE-2004 provide evaluations and analyses for non-LOCA transients which are applicable to McGuire. The scope of these analyses includes all events specified by sections 15.1-15.6 of Regulatory Guide 1.70 (Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants) and presented in the Final Safety Analysis Report for McGuire. The analysis and evaluations performed for these topicals confirm that operation of McGuire Nuclear Station for reload cycles with Mark-BW fuel will continue to be within the previously reviewed and licensed safety limits.

One of the primary objectives of the Mark-BW replacement fuel is compatibility with the resident Westinghouse fuel assemblies. The description of the Mark-BW fuel design, and the thermal-hydraulics and core physics performance evaluation demonstrate the similarity between the reload fuel and the resident fuel. The extensive testing and analysis summarized in BAW 10173P ... shows that the Mark-BW fuel design performs, from the standpoint of neutronics and thermal-hydraulics, within the bounds and limiting design criteria applied to resident Westinghouse fuel for the [McGuire] plant safety analysis.

Each FSAR accident has been evaluated to determine the effects of Cycle 8 operation and to ensure that the radiological consequences of hypothetical accidents are within applicable regulatory guidelines, and do not adversely affect the health and safety of the public. The design basis LOCA evaluations assessed the radiological impact of differences between the Mark-BW fuel and Westinghouse OFA fuel fission product core inventories. Also, the dose calculation effects from non-LOCA transients reanalyzed by BWFC utilizing Cycle 8 characteristics were evaluated. Differences in the current FSAR dose values that are not related to the insertion of Mark-BW fuel reflect the application of the latest revisions to Standard Review Plan dose assessment methodology. The calculated radiological consequences are all within specified regulatory guidelines and contain significant levels of margin.

The analyses contained in the referenced Topical Reports indicate that the existing design criteria will continue to be met. Therefore, these TS changes will not increase the probability or consequences of an accident previously evaluated.

As stated in the above discussion, normal operational conditions and all fuel-related transients have been evaluated for the use of Mark-BW fuel at [McGuire] Nuclear Station. Testing and analysis was also completed to ensure that from the standpoint of neutronics and thermal-hydraulics the Mark-BW fuel would perform within the limiting design criteria. Because the Mark-BW fuel performs within the previously licensed safety limits, the possibility of a new or different accident from any previously evaluated is not created.

The safety analyses performed in support of any reload necessarily involve the assumption of a number of input parameter values. Because of the differences in methodologies used by the various analysts, and the proprietary nature of the analyses, a side-by-side comparison of input assumptions is generally neither possible nor useful.

The reload-related changes to the TS do not involve a significant reduction in the margin of safety. The calculations and evaluations documented in BAW 10174 show that McGuire will continue to meet the criteria of 10 CFR 50.46 when operated with Mark-BW fuel. The evaluation of non-LOCA transients documented in DPC-NE-3001 also confirms that McGuire will continue to operate within previously reviewed and licensed safety limits. Because of this, the TS changes to support the use of Mark-BW fuel will not involve a significant reduction in the margin of safety.

The technical changes made to Table 2.2-1 reflect the use of the BWCMV CHF correlation and Duke Power's Statistical Core Design methodology with a 1.55 thermal design limit. These changes to Table 2.2-1 will not significantly increase the probability or consequences of an accident previously evaluated. The changes to the K values conservatively bound the allowable operating region, as defined by the new DNBR methodology. It can be concluded that these changes will not create the possibility of any new accident from those previously evaluated. It can also be concluded that since all new TS values are bounded by safety analysis assumptions that this change will not significantly decrease the margin of safety.

Several of the requested amendments are administrative in nature. The requested change which updates Table 2.2-1 for deletion of the RTD Bypass System, reflects a change which has been previously approved by the NRC (*Amendment No.* 84 to Facility Operating License NPF-9 and *Amendment No.* 65 to Facility Operating Licensing NPF-17). Since the needed modifications have been completed on both McGuire units the reference to the manifolds is obsolete and is being deleted. Since there is no change in requirements this change does not involve significant hazards considerations.

An administrative change is being made to the TS which identify which TSs apply to Unit 2, and no longer apply to Unit 1 after the reload. Table 2.2-1 has been labeled to reflect the unit to which it applies. The Power Distribution TS (3/4.2.1, 3/4.2.2, 3/4.2.3, 3/4.2.4) have been similarly labeled to specify unit-specific applicability. The existing TS will be copied on yellow paper to further

distinguish them from the new TS which apply to Unit 1 only. The Power Distribution TS will have an "A" in the page number for Unit 1 and a "B" for Unit 2. The pages will also be marked "Unit 1" or "Unit 2". This change is administrative only, and is being made to distinguish between the TS for Unit 1, which will be operated with TS revisions which reflect the use of Mark-BW fuel, and Unit 2 which will continue to operate with Westinghouse supplied fuel.

Based on the above, it is concluded that no significant hazard considerations exist.

[II. Deletion of Neutron High Negative Rate Trip (TS Tables 2.2-1, 3.3-1, 3.3-2, and 4.3-1)]

The removal of the Power Range Neutron Flux High Negative Rate trip will not result in any previously-reviewed accident becoming more probable or more severe. The trip is a response to a pre-existing transient condition and would not initiate any accident. The trip is designed to provide protection from a dropped control rod. However, in the event of a dropped rod the reactor is assumed to trip, if a trip is to occur, on low pressurizer pressure. Therefore the protection function is retained. The consequences of a dropped rod have been analyzed and found to be within acceptable limits.

Likewise, the removal of this trip will not create a new accident not previously reviewed. The removal of a response to a transient will not initiate a new transient. There are no credible unanalyzed transients which will occur as a result of a dropped rod. The removal of this trip will reduce the potential for spurious or unnecessary trips which may occur as a result of maintenance or the drop of a low-worth rod. There are no other hardware modifications or procedure changes which are to be made as a result of the deletion of this trip function which could create the possibility of a new accident.

No margin of safety will be reduce by this change. As noted above, if a dropped rod necessitates a trip, the trip function will be accomplished as a result of low pressurizer pressure. For those dropped rods for which no trip is necessary, the removal of this trip will provide protection against an unnecessary transient.

Based on the above, it is concluded that no significant hazard considerations exist.

[III. Increased Number of Operable RCS Loops (TS 3.4.1.2) and Increased Accumulator Boron Concentration (TS 3.5.1.1)]

These amendments will not involve any significant hazards consideration. The proposed changes will result in the parameter or operating condition involved to become more restrictive (conservative) than currently exists. The NRC's own guidance, published in the Federal Register (48CFR 14870) states that an amendment which results conditions becoming more restrictive are not likely to result in an NSHC. Therefore, it may be concluded with no further analysis that these amendments will not involve a Significant Hazards Consideration.

[IV. ECCS Pump Performance (TS 3/4.5.2)]

The proposed amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated because the Loss-of-Coolant-Accident (LOCA) analysis, to which the flowrates are input assumptions, continue to meet applicable acceptance criteria.

The proposed amendments will not result in a significant decrease in the possibility of a new accident because the new values represent a change in assumptions made in the LOCA analysis, rather than a physical change in the plant.

The proposed changes will not result in a significant decrease in a margin of safety, because pump performance at the new values is sufficient to meet all acceptance criteria in both the current FSAR analyses and in the revised McGuire 1 Cycle 8 analyses.

Based on the above, it is concluded that no significant hazard considerations exist.

[V. Increased Pressurizer and Main Steam Safety Valve Setpoint Tolerances (TS 3/4.4.2, TS Table 3.7-3)]

The proposed amendment will not result in a significant increase in the probability or consequences of any previously analyzed accident. The valve lift setting is challenged only after a transient has been initiated and is not a contributor to the probability of any transient or accident. The transients which involve pressure increases which would potentially challenge the safety valves have been analyzed to determine the consequences of delayed or premature valve actuation at the extremes of the new setpoint tolerances. These analyses show that all applicable acceptance criteria are met using the wider tolerances.

The proposed amendment will not result in the creation of any new accident not previously evaluated. As noted above, the setpoint tolerance only affects the time at which the safety valve opens following or during a transient, and is not a contributor to the probability of an accident.

The proposed amendment will not result in a significant decrease in a margin of safety. The limiting transient in each accident category has been analyzed to determine the effect of the change in lift setpoint tolerance on the transient. In each case, the results of the analyses met all acceptance criteria.

Based on the above, it is concluded that no significant hazard considerations exist.

[VI. Low Steam Line Pressure Setpoint Change (TS Table 3.3-4)]

Changing the Low Steam Line Pressure setpoint will not increase the probability or consequences of any previously-reviewed accident. The higher steam line pressure setpoint is consistent with all licensing basis safety analyses. This change, in conjunction with the removal of the [dynamic] compensation of the steam pressure signal, is intended to reduce or eliminate spurious Engineered Safeguards Features (ESF) actuations which are caused by minor (but rapid) pressure decreases in the secondary system.

The proposed amendment will not result in a new accident not previously reviewed. A change in steam line pressure is a response to an existing transient condition, rather than a precursor or initiating event. A change of steam line pressure setpoint is also not a precursor or initiating event.

The proposed amendment will not result in a significant decrease in a margin of safety. The reanalysis of the steam line break accident which was performed shows that all imposed Condition II acceptance criteria met.

Based on the above, it is concluded that no significant hazard consideration exist.

[VII. Feedwater and Main Steam Isolation Response Times (TS Table 3.3-5) and Main Steam Isolation Valve Stroke Time (TS 4.7.1.4)]

The proposed changes will not significantly increase the probability or consequences of any previously evaluated accident. The effects of the delays in isolation times on the various transients affected have been analyzed and found to be acceptable.

The proposed changes will not significantly increase the possibility of a new accident not previously evaluated. Feedwater and main steam isolation are responses to ongoing transients, rather than initiators or precursors of transients. No equipment or component reconfiguration will occur as a result of this change.

The proposed changes will not significantly decrease any margin of safety. As noted above, the effects of the longer isolation times have been evaluated and found to be acceptable.

Based on the above, it is concluded that no significantly hazard consideration exist.

[VIII. Administrative Changes to TS 6.9.1.9 "Core Operating Limits Report"]

These proposed changes to Technical Specifications are administrative in nature and as such will not involve a significant hazards consideration. The changes reflect the application of previously-approved Core Operating Limits Report (COLR) methodology for changing cycle-specific variables. COLR methodology was approved by the NRC for McGuire as Facility Operating License amendment nos. 105 (Unit 1) and 87 (Unit 2).

Based on the above, it is concluded that no significant hazard considerations exist.

[IX. Revision to Accident List Requiring Reevaluation due to Inoperable RCCA (TS Table 3.1-1)]

The proposed change to Table 3.3-1 will not change the probability or consequences of any accident or reduce any safety margin, because the table simply lists accident analyses which must be reevaluated in the event of an inoperable rod cluster control assembly (RCCA). The activities involved are analytical only, and do not introduce any operational considerations. Revision of the table to more accurately define the affected analyses is an administrative effort related to activities (analyses) which are conducted offsite after the fact of a postulated inoperable RCCA.

Based on the above, it is concluded that no significant hazard considerations exist.

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: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 4, 1990

Description of amendment request: The proposed amendment would change the indicated location of temperature elements that initiate Reactor Water Cleanup System (RWCU) isolation from the "RWCU Valve Nest Room" to the "RWCU Hx Room Valve Nest Area". This change will make the Technical Specifications (TS) conform to the actual location of the temperature elements in the facility.

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. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. Although the proposed change results in an increase in the RWCU isolation time in mitigating a postulated RWCU line break (due to the 45 second delay timer in the delta flow instrumentation), this increased isolation time has been demonstrated to have no adverse effects on systems, structures, or components necessary to mitigate postulated RWCU line breaks and safely shut down the plant. In addition, this change clearly has no potential to increase the likelihood of any line break. Therefore, this change will not increase the probability of occurrence of a previously evaluated accident.

b. The large break temperature and pressure transients for the applicable RWCU areas have been reanalyzed. The new analysis incorporates inputs based on a more accurate estimate of forward flow blowdown enthalpy and mass flow rate, mass inventory available for reverse flow, and additional heat sinks inside the containment. The results of this analysis have shown that the new parameter values are enveloped by the existing design. As previously described, the increased temperature profiles in the affected compartments have been evaluated and still remain within the tested temperature limits of affected environmentally qualified equipment. The subcompartment pressure profiles also remain within the structural design limits. The bounding containment negative pressure transient is based on a break in the RWCU system followed by an inadvertent actuation of containment spray. The resulting net pressure differential across the containment is still much less that the design negative pressure of 3.0 psid. The limiting suppression pool vent velocities and thus the reverse pool swell drag and impact loads resulting from the containment negative pressure transient were not affected by this change. In addition, the offsite doses resulting from the postulated RWCU piping failures were found to be much less than those already evaluated for other events (e.g., the main steam line break outside containment). Since the new analysis has demonstrated that the required design functions are met and the temperature elements are actually located where required, the consequences of previously evaluated accidents are not increased.

c. Therefore, the probability or consequences of previously analyzed accidents are not increased.

2. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

a. This change involves an increase in isolation time in the event of an RWCU pipe break. There is no adverse impact on systems, structures, and components necessary to mitigate a postulated RWCU line break or safely shut down the plant. There are no new event precursors created by this change. The TS are changed to reflect the actual location of the temperature elements as required by analysis.

b. No new mode of operation is introduced by this change.

c. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. This change would not involve a significant reduction in the margin of safety.

a. The clarification of the TS requirements for RWCU system isolation based on lack of temperature elements in the "RWCU Valve Nest Room" is based on a reanalysis of RWCU break scenarios taking credit for only the existing delta flow isolation instrumentation. The analytical limits and the bases for the existing delta flow isolation actuation instrumentation trip setpoints are not affected by this change. The new analysis is based on the existing safety limits and TS values for valve stroke times, instrumentation response times, and accuracy allowances. The reanalysis demonstrated that, for the postulated RWCU breaks, there are no adverse effects on systems, structures, or components required to mitigate the pipe break or to safely shut down the plant. The proposed change will result in the actual location of the temperature elements being properly described.

b. Therefore, this change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Acting Project Director: Robert A. Gramm

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 13, 1991

Description of amendment request: The proposed amendment would change the time requirement for operability testing of the remaining diesel generators if Diesel Generator 13 is inoperable from 2 hours to 24 hours.

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. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

(1) This change will not affect the method by which system operability is determined or the operation of the diesel generators. The change will only extend the time requirements for demonstrating adequate diesel operability when Diesel Generator 13 is inoperable from 2 hours to 24 hours. This change is consistent with Action 3.8.1.1.b concerning an inoperable Diesel Generator 11 or 12.

(2) This change will decrease the number of required diesel generator starts, hence engine wear and stress, and increase reliability. When Diesel Generator 13 is inoperable but restored within 24 hours, two diesel starts are prevented and reliability is improved. Hence, the probability of an accident previously evaluated is not increased.

(3) Since the proposed change will not impact plant design or require the modification of equipment designed to mitigate the events of an accident, the consequences of an accident already evaluated are not changed. The diesel generators will continue to perform the necessary emergency functions.

(4) Therefore, the probability or consequences of previously analyzed accidents are not increased.

b. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

(1) The proposed change will not require the addition, deletion or modification of any plant hardware and no new modes of plant operation or testing will be introduced.

(2) The method by which any safety-related system performs its function will not be changed. The methods for verifying component or system operability will not change.

(3) Therefore, operating the plant with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. This change would involve a significant reduction in the margin of safety.

(1) The proposed change does not affect the methodology used in the offsite dose analysis or the acceptance criteria associated with any accident analysis.

(2) The diesel generators will continue to function as power sources for the emergency core cooling systems in the event of a loss of offsite power or a LOCA signal. Allowing 24 hours to perform the two diesel generator starts will actually enhance safety by reducing operator burden and by increasing the availabilities of Diesel Generators 11 and 12.

(3) Therefore, this change will not involve a 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.

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NRC Acting Project Director: Robert A. Gramm

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 13, 1991

Description of amendment request: The proposed amendment would: a) incorporate programmatic controls into the Administrative Controls section of the Technical Specifications (TS) that satisfy the regulatory requirements of 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a and Appendix I to 10 CFR Part 50, b) relocate the existing procedural details in the current TS involving radioactive effluent monitoring instrumentation, the control of liquid and gaseous effluents, equipment requirements for liquid and gaseous effluents, radiological environmental monitoring, and radiological reporting details from the TS to the Offsite Dose Calculation Manual (ODCM), c) relocate the definition of solidification and existing procedural details in the current TS on solid radioactive wastes to the Process Control Program (PCP), d) simplify the reporting requirements and relocate the existing procedural details in the current TS to the ODCM or the PCP, e) simplify the administrative controls and adds record retention requirements for changes to the ODCM and the PCP, and f) update the definitions of the ODCM and the PCP consistent with these changes. This amendment implements the guidance contained in NRC Generic Letter 89-01.

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. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

(1) The relocation of the existing procedural requirements of the current TS for radioactive effluents, radiological environmental monitoring and solid radioactive wastes to the ODCM or the PCP, as appropriate, and the addition of administrative controls for these relocated requirements will not reduce the requirements associated with the existing TS.

(2) This change will not impact plant design or the operation of plant systems. Hence, the same degree of equipment reliability is maintained and the probability of a previously analyzed accident is not increased.

(3) Since the proposed change does not require the modification of equipment designed to mitigate the events of an accident, the consequences of an accident already evaluated will not change.

(4) Therefore, the probability or consequences of previously analyzed accidents are not increased.

b. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

(1) The proposed change will not require the addition, deletion or modification of any plant hardware and no new modes of plant operation or testing are introduced.

(2) The method by which any safety-related system performs its function will not be changed. In addition, the methods for verifying component or system operability will not change.

(3) The relocation of the RETS [Radiological Effluent Technical Specifications] to the ODCM or the PCP will not reduce the controls on radiological effluents and any changes to the ODCM or the PCP will be accomplished in accordance with the administrative controls added to TS.

(4) Therefore, operating the plant with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. This change would not involve a significant reduction in the margin of safety.

(1) This change will not change any existing radiological limits. All technical content of the current TS will be preserved when the procedural details are relocated to the ODCM or the PCP. Administrative controls are added to TS to ensure that future changes to the ODCM and the PCP do not result in a reduction to the margin of safety associated with these limits.

(2) The proposed changes do not affect the methodology used in the offsite dose analysis nor the acceptance criteria associated with any accident analysis.

(3) Therefore, this change will not involve a reduction in the margin of safety.

Based on the above evaluation, operation in accordance with the proposed amendment involves no significant hazards considerations.

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: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

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NRC Acting Project Director: Robert A. Gramm

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 15, 1991

Description of amendment request: The proposed change would remove requirements from the Balance of Plant (BOP) Load Shed contained in Technical Specification Tables 3.3.3-1, 3.3.3-2, and 4.3.3-1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

(1) The successful operation of this feature is not assumed to prevent any accident. The potential for the extreme system operating condition, for which this feature provided the greatest benefit, no longer exists due to the cancellation of Unit 2. Consequently, the probability of occurrence of a DBA LOCA with degraded grid conditions resulting in a concurrent Loss of Offsite Power (LOP) could not be significantly affected by the disabling of this feature. As a result, the removal of the requirements (and the removal of the feature) will not significantly increase the probability of an accident.

(2) The successful operation of this function is not a prerequisite for any safety function including the proper operation of the Class 1E electrical system. As a result, the removal of the requirements (and the removal of the feature) will not increase the consequences of an accident.

(3) Therefore, the probability or consequences of previously analyzed accidents are not increased.

b. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

(1) The requested change will not add any plant equipment, introduce any new modes of plant operation, or add any new testing configurations.

(2) Current accident analysis bound degraded voltage conditions affected by the removal of this feature.

(3) Therefore, operating the plant with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. This change would not involve a significant reduction in the margin of safety.

(1) The proposed change does not affect the methodology used in the offsite dose analysis nor the acceptance criteria associated with any accident analysis.

(2) The successful operation of this feature is not a prerequisite for any safety function and is not taken credit for in the system voltage calculations for Unit 1.

(3) The non-valid operation of this feature has resulted in challenges to safety systems as the result of two turbine trips and associated reactor trips. Removal of this feature will remove the possibility of this cause of unnecessary challenges to safety systems.

(4) Removal of the BOP Load Shedding capability will result in a net benefit to 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.

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NRC Acting Project Director: Robert A. Gramm

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: August 22, 1991

Description of amendment request: These amendments would make line-item improvements to the St. Lucie Unit 1 and Unit 2 Technical Specifications in accordance with Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed by [Florida Power and Light Company (FPL)] will not lead to material procedure changes or to physical modifications to the St. Lucie Plant. Therefore, the proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

The changes being proposed by FPL will not lead to material procedure changes or to physical modifications to the St. Lucie Plant. Therefore, the proposed changes would not create the possibility of a new or different kind of accident.

(3) Operation of the facility in accordance with the proposed amendment[s] would not involve a significant reduction in a margin of safety.

The changes being proposed by FPL do not modify the safety margins defined in and maintained by the Technical Specifications. Since the snubber functional test program is not being altered and the alternative visual inspection program does not decrease the confidence level associated with this technical specification, the proposed changes would not involve any significant reduction in a margin of safety.

Based on the above, we have determined that the amendment request does 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; and therefore 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 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: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 26, 1991

Description of amendment request: The proposed amendment would make changes to the Technical Specifications in accordance with the guidance provided in Generic Letter 89-01. The change consists of relocating the procedural details of Radiological Effluent Technical Specifications (RETS) into the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP) in a manner that ensures these details are incorporated into plant operating procedures. In addition, programmatic controls would be added to the Administrative Controls section of Technical Specifications to satisfy the regulatory requirements and control changes to the procedural details of the ODCM or PCP.

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 amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The amendment involves only relocation of the requirements for responses to radiological effluent releases from one governing source to another. The requirements themselves are not changed; therefore, accident probability and/or consequences are unaffected.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The design of STPEGS is not changed by the proposed amendment. The proposed amendment relocates existing procedural details without change which does not create the possibility of a new or different accident from any accident previously evaluated. Any changes in the future will be performed in accordance with 10 CFR 50.59 and will have a clear establishment of the basis of the requirement, an appropriate analysis or evaluation, a determination of conformance to regulations, review by a multidisciplinary review group (PORC), Plant Manager approval and post approval review by the NSRB [Nuclear Safety Review Board]. Therefore, changes to the ODCM or PCP are controlled to prevent the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in margin of safety. The proposed amendment adds

programmatic controls to the Administrative Controls section of Technical Specifications to satisfy the regulatory requirements and changes to the procedural details of the ODCM or PCP will be controlled by the Administrative Controls section of Technical Specifications. The addition of these controls does not involve a significant reduction in the margin of safety. The relocation of the procedural details for radiological effluents has been performed to ensure that these controls are placed appropriately in the ODCM or PCP such that these details are incorporated into plant procedures and programs. Incorporation of these radiological effluent details into the plant procedures and programs ensures that there is not 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 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 Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: George F. Dick, Acting Director

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: March 26, 1991

Description of amendments request: The Technical Specifications would be revised to delete requirements relating to Boron Injection Tanks (BITs). There is a single 900 gallon BIT associated with each unit. This amendment would permit the licensee to deactivate the BITs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided an analysis of the issue of no significant hazards consideration which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The deactivation of the BIT affects the postulated steam line break scenario with respect to (a) core integrity, (b) mass and energy release to the containment, and (c) mass and energy release outside containment for its potential effect on the environmental qualification of safety related instrumentation. Analyses performed with the assumption that the BIT is deactivated (i.e., zero ppm boron concentration and no heat tracing) show that the thermal margin (DNBR) design bases are met and no fuel clad failure is anticipated. Additionally, temperatures and pressures reached in the containment would be below the containment design limits. Also instrument surface temperatures would remain below the qualified temperature values. Therefore, the equipment inside and outside containment necessary to mitigate the consequences of an accident would function as intended. Therefore no significant increase in the probability or consequences of a previously analyzed accident would occur.

2.The change would not create the possibility of a new or different kind of accident from any previously analyzed.

The BIT is a component of the safety injection system. Its sole function is to mitigate the effects of rapid cooldown during a postulated steam line break. The deactivation of the BIT will therefore affect the steam line break event, but will not create the possibility of a new or different type of accident.

3. The change would not involve a significant reduction in the margin of safety.

Analyses performed for the deactivation of the BIT indicate that the thermal margin design basis would continue to be met. Additionally, the temperature and pressure conditions reached in containment, for the main steam line break in containment event, would be bounded by the containment design conditions. Also, in event of a main steam line break outside containment, environmentally qualified equipment outside containment would not be subjected to conditions in excess of qualified limits. Since the design basis conditions contain the required margins of safety, no significant reductions in margins of safety would result.

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: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 19, 1991

Description of amendment request: This amendment would make administrative changes in that it would revise the appearance of Figure 2.1.1, Reactor Water Level Indication. In addition changes will be made to Technical Specification Section 6.1.1, to reflect managerial restructuring.

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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation

1. The first proposed change revises Page 10 of the CNS [Cooper Nuclear Station] Technical Specifications, Figure 2.1.1, Reactor Water Level Indication Correlation, to present both existing and new information in an easier to understand format. This proposed change is administrative in nature and does not make any changes in numerical vessel level setpoint values. The level setpoint values and their associated instrumentation given on Page 10 (Figure 2.1.1) are delineated and controlled elsewhere in the CNS Technical Specifications. Some changes have been made to the equipment identification nomenclature, but these are strictly editorial in nature and do not affect the number of instruments or their function. Therefore, this change reflects only a change in the format, and content of presented information and does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The second proposed change revises Paragraph 4.7.C, BASES, of the CNS Technical Specifications. This change deletes a statement concerning the performance of tests to demonstrate secondary containment integrity prior to the time primary containment is opened for refueling. This statement conflicts with Surveillance Requirement 4.7.C.1.c which requires the subject tests to be performed at each refueling outage prior to refueling.

The Limiting Conditions for Operations (LCO) and Surveillance Requirements (Section 3.7/4.7) are unaffected by this change. No change to plant hardware of plant operations results from this change. This change only corrects a potential source of confusion in the CNS Technical Specifications. Therefore, this change does not involve an increase in the probability or consequences of an accident previously evaluated.

3. The third proposed change involves the revision of Paragraph 6.1.1 of the CNS Technical Specifications to add the Senior Manager of Staff Support as being an additional alternate responsible for the safe operation of CNS if the Division Manager of Nuclear Operations is unavailable. This paragraph, as proposed, does not change the hierarchy of automatically shifting the above referenced responsibility to the Senior Manager of Operations or the Senior Manager of Technical Support Services. This change reflects the addition of the Senior Manager of Staff Support to the CNS Organization, and is consistent with the requirements of ANSI N18.1-1971. Therefore, this change does not involve an increase in

the probability or consequences of an accident previously evaluated.

B. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

Evaluation

1. The first proposed change involves the replacement of Figure 2.1.1, Page 10, Technical Specification with an updated presentation of existing and additional information. This change does not make any changes in specification requirements. Some changes have been made to the equipment identification nomenclature, but these are strictly editorial in nature and do not affect the number of instruments or their function. These changes are administrative in nature and do not constitute any hardware changes, additions, or changes in plant configuration.

The proposed change to Figure 2.1.1 introduces some new information, including three new level indication illustrations, not shown on the current Figure 2.1.1. This information is controlled by other portions of the Technical Specifications and does not represent any changes or additions of hardware, or changes in plant configuration. The Proposed Figure 2.1.1 is more user friendly through improved presentation of level indication information. Therefore, this proposed change does not create the possibility for a new or different kind of accident previously evaluated.

2. The second proposed change deletes a statement from Paragraph 4.7.C, BASES, involving the performance of tests to demonstrate secondary containment integrity prior to opening of the primary containment. This change is proposed in order to correct an apparent conflict between the above referenced statement and Surveillance Requirement 4.7.C.1.c. This change involves no hardware changes and does not effect operations (including refueling) in any way. Therefore, this proposed change does not create the possibility for a new or different kind of accident previously evaluated.

3. The third proposed change involves the revision of Paragraph 6.1.1 of the CNS Technical Specifications to include the Senior Manager of Staff Support as an additional alternate for assuming overall onsite fulltime responsibility for the safe operation of CNS in the absence of the DMNO [Division Manager of Nuclear Operations]. This change is administrative in nature and does not result in any hardware changes or changes in plant operations. Therefore, this proposed change does not create the possibility for a new or different kind of accident previously evaluated.

C. Does the proposed change create a significant reduction in the margin of safety?

Evaluation

1. The first proposed change addresses the replacement of the existing Figure 2.1.1 of Technical Specifications with a reformatted and updated Figure 2.1.1. Information displayed in this proposed change is contained and controlled by other portions of the CNS Technical Specifications and/or other controlled CNS documents. There have been no changes in plant parameters or safety setpoint settings associated with this proposed change. Therefore, this change makes no physical impact on the margin of safety.

As for the effect on human factors, the above referenced proposed change presents reactor vessel level information in a format which is both easier to understand, and more accurately reflects level transmitter and level indication identification nomenclature numbers. The improvement in the manner that information is presented in this figure is an enhancement to the Technical Specification clarity. Therefore, implementation of this proposed change could not create a significant reduction in margin of safety.

2. The second proposed change involves the deletion of a conflicting statement from Paragraph 4.7.C, BASES, Technical Specifications. This statement addresses the performance of tests to demonstrate secondary containment integrity prior to the opening of primary containment. CNS Technical Specifications 3.7.C.1 (a through e) and 4.7.C.1.c establish the LCO and Surveillance Requirements necessary to provide assurance that secondary containment integrity is maintained. From these applicability requirements it follows that surveillance tests need not be performed until conditions exist that could result in damage to irradiated fuel. The above referenced current statement contained in Paragraph 4.7.C., BASES, is artificially conservative in that none of the conditions of LCO 3.7.C.1 are applicable prior to the opening of primary containment. Therefore, deletion of this artificially conservative statement from the BASES would not create a significant reduction in margin of safety.

3. The final proposed change adds the Senior Manager of Staff Support to Paragraph 6.1.1 of the CNS Technical Specifications. This change is administrative in nature, and reflects the addition of a new management position into the CNS organization. Therefore, this proposed changes does not create a significant reduction in 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: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: Theodore R. Quay

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: August 12, 1991

Description of amendment request: The proposed amendment would revise Fort Calhoun Station Unit 1, Technical Specification 3.7(1). The surveillance requirements for the diesel generators are being revised to reduce the number of diesel generator fast starts. Diesel generator fast starts are a concern as they are believed to contribute to increased wear and equipment degradation. The surveillance requirements for diesel generator loads will remain the same.

As currently written, Specification 3.7(1)a.i. requires that a fast start be performed on each diesel generator at monthly intervals. Two (2) of the fast starts are from ambient conditions which are required by NRC Generic Letter 84-15. The remaining fast starts are preceded by a prelubrication and prewarming run and engine shutdown. The diesel generators are run unloaded to supply warm oil to prelubricate critical rotating components and to warm the engine to reduce mechanical stresses during the warm fast start. This current method of surveillance testing results in two diesel generator starts per surveillance test.

The proposed revision calls for the removal of the requirement to test the diesel generator on a monthly basis to start and accelerate to rated speed and voltage in less than or equal to ten (10) seconds. The justification for the reduction in testing requirements is that the governor operation to increase speed and load can be demonstrated locally or in the control room. In addition, historical data have shown that the diesel generators rarely fail to comply with the ten (10) second criterion.

The proposed monthly requirement is to perform an idle start and then manually accelerate and load the diesel generators. An idle start is one in which the engine is started and operated at idle for a short time period (as recommended by the engine vendor) before being accelerated to rated speed and then loaded. This method allows the engine lube oil and cooling systems to stabilize prior to acceleration and loading.

The diesel generator manufacturer states that the most desirable starting procedure is one which utilizes an idle start to allow temperatures to stabilize before loading. This method will reduce the test induced wear and equipment degradation to a minimum.

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.

In order to ensure that the Diesel Generators perform as they were designed, it is important that they be tested on a routine basis; however, when testing becomes excessive the tests themselves can lead to test-induced wear and degradation, which could reduce the diesel generators reliability and availability. The proposed change to this Technical Specification provides for an overall reduction in diesel generator starts which is consistent with the intent of NRC Generic Letter 84-15 and other utilities' EDG [Emergency Diesel Generator] Technical Specification changes that have been previously approved by the NRC. Since the proposed change will improve the overall reliability and availability of the diesel generators and each EDG (by itself) can satisfy the power requirements for the peak and long-term accident loads, the proposed change will not significantly increase the probability or consequences of any accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or different modes of operation are proposed as a result of this change. The proposed change would reduce the overall number of diesel fast starts and is intended to increase the overall reliability and availability of the diesel generators. Since the diesel generators will still be capable for performing their design function (with potentially increased availability) the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety?

The proposed change does not reduce any margin of safety. The purpose of the diesel generators is to ensure there is sufficient power available to supply the safety related equipment required for safe shutdown of the plant and mitigation and control of accident conditions. The redundancy of the power sources required ensures that even during an accident with a coincident loss of offsite power and a single failure of one onsite power source, there is still sufficient power to supply all required safety systems. Since the proposed change has no effect on the Limiting Condition of Operation (LCO) these requirements are unaffected. In the event one emergency diesel generator is inoperable, Technical Specification 2.7(2) requires that all other A.C. normal and emergency power systems be operable and that all Engineered Safeguards on the operable bus supplied by the operable diesel generator be operable. This provides assurance that a loss of offsite power will not result in a complete loss of safety function of critical systems during the time one EDG is inoperable. The proposed changes to the Technical Specifications should result in increase reliability and availability of the EDGs. The surveillance requirements are intended to demonstrate the operability of the A.C. sources. There have been no changes to the surveillance requirements affecting the operability of the offsite A.C. sources. The proposed changes will reduce the overall wear on the diesel engines. This should result in an increase reliability of the EDGs. Therefore, due to the increased reliability and availability of the EDGs, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Acting Project Director: Robert A. Gramm

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: August 27, 1991

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) for the Limerick Generating Station (LGS), Units 1 and 2 by adding Section 3/4 7/8 and associated Bases. The new Section would add operability requirements, Limiting Conditions for Operation (LCOs) and Surveillance Requirements (SR) for the Main Turbine Bypass System. This change is being proposed to take credit for main turbine bypass valve operation in the calculation of the minimum critical power ratio (MCPR) thereby giving the plant more MCPR margin (i.e., the feedwater controller failure would no longer be the limiting transient). The latest NRC approved Boiling Water Reactor (BWR) Standard TS (NUREG-0123, Rev. 3, 1980) includes the main turbine bypass system operability requirements. As a result, most BWR plants already have the main turbine bypass system operability requirements in their TS. When the LGS, Unit 1 was licensed to operate, the MCPR limit posed no operational constraints; thus, the licensee declined to include operability requirements on the main turbine bypass system.

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:

We have concluded that the proposed changes to the LGS TS, which specify operability requirements for the main turbine bypass system, do not constitute a Significant Hazards Consideration. In support of this determination, an evaluation of each of the three standards set forth in 10 CFR 50.92 is provided below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes specify requirements for verifying the operability of the main turbine bypass system, and do not affect any plant hardware, plant design, or plant systems. Therefore, the probability of an accident previously evaluated is unchanged by the proposed TS changes.

The main turbine bypass system limits the peak pressure in the main steam lines and maintains reactor pressure within acceptable limits during events that cause rapid pressurization. Chapter 15 of the [Updated Final Safety Analysis Report] UFSAR includes an evaluation of the effects of reactor pressure increase on fuel thermal margin during possible pressurization events. These analyses specified the operating limit MCPRs for the initial core at which the safety limit MCPR would not be exceeded during the pressurization events. All subsequent operating limit MCPRs are determined by the cycle specific transient analysis for LGS Unit 1 and Unit 2, respectively. Of the pressurization events, the [Feedwater Controller Failure] FCF, maximum demand is currently the most limiting. The cycle specific transient analysis indicates that the operating limit MCPR is lower for the FCF with an operable bypass system. Verifying the operability of the turbine bypass system in accordance with the proposed TS provides assurance that the system will operate and perform its intended function of ensuring that the safety limit MCPR is not exceeded should a FCF transient occur while operating at the reduced operating limit MCPR. Additionally, the proposed TS will ensure that when the bypass system is inoperable, the operating limit MCPR is established to provide sufficient margin such that the safety limit MCPR is not exceeded in the event of a FCF transient. Because the cycle specific transient analyses, including the FCF with and without bypass transients, will be performed and reflected in the [Core Operating Limits Report] COLR for all subsequent operating cycles for LGS Unit 1 and Unit 2, respectively, the operating limit MCPRs will be established, based on operability of the turbine bypass system, to ensure that the safety limit MCPR is not exceeded in the event of a FCF. Therefore, the consequences of an accident previously evaluated are not changed by the proposed TS changes.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not alter the design or function of any plant equipment, nor do they introduce any new operating configurations or failure modes. Currently, the operating limit MCPRs for LGS, Units 1

and 2, are established based on the FCF without bypass transient. The proposed TS will result in lowering the operating limit MCPR for an operable main turbine bypass system, but will require appropriately revising the operating limit MCPR if the main turbine bypass system is inoperable. Accordingly, the FCF with and without bypass transients will continue to be analyzed in the cycle specific transient analysis and reflected in the COLR for each LGS unit to be used in conjunction with the proposed TS. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed TS changes will ensure that the operating limit MCPR, as determined by the cycle specific transient analysis for LGS Unit 1 and Unit 2, respectively, will be established based on the operability of the main turbine bypass system such that the safety limit MCPR will not be exceeded in the event of the occurrence of the analyzed transients. Therefore, the proposed TS changes will not reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 18, 1976 as supplemented by letters dated April 19, 1984, October 10, 1986, April 21 and June 23, 1988 and May 17, 1991. The April 19, 1984 request was noticed August 22, 1984 (49 FR 33367). The October 10, 1986 proposal completely supersedes all previous proposals.

Description of amendment request: The proposed amendment would add Surveillance Requirements to incorporate the requirements of Appendix J on the leaktight integrity of the primary reactor containment and components which penetrate the containment. The proposed changes were requested by the NRC of all licensees to bring them into conformance with Section 50.54(o) and Appendix J of 10 CFR Part 50 "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

The licensee also proposes to delete references in Table 3.7.4 (Primary Containment Testable Isolation Valves) to certain valves which do not require local leakage rate testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), in the submittal of October 10, 1986, the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

These changes do not involve a significant hazards consideration since they do not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated since the changes enhance the conservatism of both the integrated and local leak rate testing program;

(2) create the possibility of a new or different kind of accident from any accident previously evaluated since additional surveillance provisions do not create a potential accident precursor;

(3) involve a significant reduction in a margin of safety since the addition of isolation valves to the testing program and the more conservative leak rate criteria proposed by the Application improves the assurance that containment integrity will be maintained, and off-site radiation doses will be limited to a small fraction of the Commission's regulations during accident conditions.

The Plant Operation Review Committee and the Nuclear Review Board have reviewed the proposed changes to the Technical Specifications and have concluded that they do not involve an unreviewed safety question or a significant hazards consideration and will not endanger the health and safety of the public.

The NRC staff has reviewed the licensee's analysis and the licensee's submittals of April 21 and June 23, 1988 and May 17, 1991, as they affect the licensee's analyses of no significant hazards consideration. 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: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: May 24, 1991

Description of amendment request: The proposed changes would modify the Comanche Peak Steam Electric Station (CPSES) Unit 1 Technical Specifications (TS) by relocating cycle-specific parameters from the TS to a Core Operating Limits Report (COLR) in accordance with Generic Letter 88-16, replacing the radial peaking factor (Fxy) surveillance with a heat flux hot channel factor (FQ) surveillance, and revising the upper bound for the cycle-specific moderator temperature coefficient (MTC) to allow operations with a positive MTC.

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 relocation of cycle-specific core operating limits from the CPSES Unit 1 Technical Specifications to the COLR has no influence on the probability or consequences of any accident previously evaluated. The limits are calculated using NRC-approved methodology and are consistent with all applicable limits of the safety analysis. Merely relocating these limits will not involve a significant increase in the probability or consequences of an accident previously evaluated. This assurance is independent of the location of the cycle-specific core operating limits.

The incorporation of the FQ Surveillance method involves no changes in accident initiators which could change the probability of an accident. The consequences of previously evaluated accidents remain unchanged since only the surveillance method used to verify compliance with the FQ limit is changed. The FQ Limiting Condition for Operation itself is not being changed.

Operation with the proposed [positive] PMTC limits only affect the transient response following an initiating event. Therefore, the probability of an initiating event is unaffected by the proposed PMTC limits. The accident analyses have been evaluated and there is not a significant increase in the consequences of any accidents.

Therefore, the proposed Technical Specification changes do not involve a significant increase in 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. The relocation of cycle-specific core operating limits from the CPSES Unit 1 Technical Specifications to the COLR still requires that plant operations remain within core operating limits developed using NRC approved methodologies and consistent with all applicable limits of the safety analysis.

The use of the FQ Surveillance method does not involve any design changes. The proposed surveillance procedure does not involve a change in the method of plant operation and does not allow operation outside the limits previously analyzed. Since the plant design, limitations and method of operation are unchanged, this new surveillance method does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of PMTC does not involve any design changes to the fuel, reactor coolant system or engineered safety features. The MTC was already considered in all accident and transient analysis. Implementation of PMTC requires that all transients and accidents described in the FSAR be evaluated to assess the effect of the PMTC; but no new or different types of accidents can result.

Therefore, the proposed Technical Specification changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

Even though specific values are moved to the COLR, Specifications continue to require operation within the core limits developed using NRC-approved reload design methodologies and consistent with all applicable limits of the safety analysis. As such, the margin of safety is maintained.

The proposed FQ surveillance method accomplishes the same purpose as the Fxy surveillance it replaces and the limit placed on FQ remains unchanged. Since this limit remains the same, the margin of safety is not affected.

Evaluations have been performed to assess the effect of a PMTC on the FSAR accident analyses. The results of the evaluations show no significant increase in accident consequences. The applicable event acceptance criteria continue to be met and the conclusions reached in the FSAR remain valid. Thus, a PMTC does not cause a reduction in the margin of safety.

Therefore, the proposed Technical Specification changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black, Director

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: June 28, 1991

Description of amendment request: The proposed amendments would change the Comanche Peak Steam Electric Station (CPSES) Technical Specifications (TS) 4.4.8.3.2 and 4.5.2 to reflect the removal of the Residual Heat Removal (RHR) isolation valve autoclosure interlock (ACI).

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 significance increase in the probability or consequences of an accident previously evaluated.

The RHR autoclosure interlock was designed to prevent the occurrence of an RHR pipe rupture and subsequent intersystem LOCA [loss-of-coolant accident] by automatically isolating the RCS [reactor coolant system] from RHR system whenever RCS pressure exceeds a specified pressure below RHR system failure pressure.

Several recent industry events involving spurious actuation of the ACI have caused the loss of RHR cooling during non-power operations. Sandia report, NUREG/CR-4335, SAND 84-1339, "Potential Benefits Obtained by Requiring Safety Grade Cold Shutdown Systems", identified loss of RHR suction when the ACI interlock is present as a significant contributor to total plant core melt frequency. WCAP-11736 was prepared to address this concern.

WCAP-11736 includes a review of the ACI design basis and proposes design changes based on an evaluation of the effect of ACI removal on RHR system availability, low temperature overpressure protection, and the potential for intersystem LOCA. TU Electric has reviewed the WCAP for applicability to CPSES and has concluded that the CPSES RHR system is sufficiently similar to a WCAP-11736 reference plant (Callaway) that the WCAP conclusions remain valid for CPSES.

The following conclusions are drawn by the WCAP and/or the TU Electric evaluation of the WCAP:

-Sufficient means exist to minimize a LOCA outside containment and removal of the ACI reduces the frequency of interfacing system LOCA's in Modes 1, 2 and 3.

-The removal of the ACI increases the availability of the RHR system function to remove decay heat during cold shutdown. -The removal of the ACI has no effect on heat input transients. For mass input transients, there was a slight increase in some consequence categories, however, this was not considered to be significant. The removal of the ACI decreases the frequency of the spurious activation of the RHR suction isolation valves. The reduction in frequency significantly reduces the number of letdown isolation transients. The removal of the ACI provides a net positive safety benefit in solid plant operations. The proposed design change will reduce the frequency of an RHR overpressure event.

-CPSES RHR relief valves provide the necessary relief capacity for overpressure protection.

Based on TU Electric's review of WCAP-11736, the comparison of CPSES with the WCAP reference plant, and the implementation of the WCAP recommended improvements, it is concluded that the probability or consequences of an accident previously analyzed is not significantly increased. The removal of the ACI results in a net improvement in plant safety by increasing the net availability of the RHR system and reducing the probability of an intersystem LOCA. The ACI removal does not effect the function or failure mode of the RHR system or Reactor Coolant System other than automatic isolation. The ACI function was originally provided to ensure that the isolation valves are closed during RCS pressurization to prevent an intersystem LOCA. Adequate RHR system protection is provided by the RHR suction relief valves, supplemented by administrative controls and operator alarms.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The removal of the ACI and the addition of the control room RHR suction valve-not-closed alarm do not change the function or failure modes of the RHR suction isolation valves. RHR system overpressure and loss of RHR cooling are the only accidents the ACI impacts. The effect of an overpressure transient at cold shutdown conditions is not altered by the removal of the ACI. With or without the ACI function, the RHR system could be subject to overpressure for which the RHR suction relief valves are relied upon to limit pressure within the design of the RHR system. The relief valves along with the alarms, interlocks and administrative controls ensure that the RHR suction valves are closed when the RCS pressure is high and that the RHR system is maintained within its design parameters. With regard to RHR cooling, the removal of the ACI has only a positive impact in that the availability of RHR cooling is increased by eliminating a possible cause for spurious RHR suction valve closure. Therefore, the removal of the ACI does not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed change does not involve a significant reduction in the margin of safety.

This change does not involve a significant reduction in the margin of safety since the

safety analyses in the CPSES [Final Safety Analysis Report] FSAR are essentially unaffected and safety limits are not exceeded. The possible impacts to safety analyses relate to events that increase pressure when the RHR system is connected to the RCS. The potential impacts are due to fluid loss through the relief valves, or in the worst case, loss of fluid and loss of RHR availability through a rupture of the RHR system.

The alarms with attendant operator action, as well [as] the system design features and administrative controls are adequate to terminate the event or isolate the RHR such that rupture will not occur. For most events, it is expected that RHR will be isolated sooner due to operator action than via the functioning of the previous ACI. The potential difference of fluid loss is not considered significant. Therefore the changes do not involve a significant reduction in the margin of safety. On the contrary, WCAP-11736 has concluded that the increased availability of the RHR system resulting from ACI removal results in a net safety benefit.

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 Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black, Director

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: August 9, 1991

Description of amendment request: The proposed amendment would change the Comanche Peak Steam Electric Station (CPSES) Unit 1 Technical Specifications (TS) to increase the required minimum shutdown margin for cold shutdown (Mode 5) operation from 1% Wk/k to 1.3% Wk/k, and increase the minimum boration requirement from a shutdown margin equivalent to 1% Wk/k at 200° F to 1.3% Wk/k at 200° F for the action statements associated with the limiting conditions for operation (LCOs) for boration systems.

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.

Operation with the proposed minimum shutdown margin requirement only affects the transient response following an initiating event from [cold shutdown] Mode 5. Therefore, the probability of an initiating event is unaffected by the proposed change. The accident analyses have been evaluated and the only accident of concern is the boron dilution event in Mode 5. This event has been analyzed and the applicable event acceptance criteria continue to be met with the conclusions of the [Final Safety Analysis Report] FSAR remaining valid.

Therefore, the proposed Technical Specification changes do not involve an increase in 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.

The use of the increased minimum shutdown margin requirement for Mode 5 does not involve any design changes to the fuel, Reactor Coolant System or engineered safety features. Thus, implementation of the increased minimum shutdown margin requirement for Mode 5 does not result in any new or different types of accidents.

Therefore, the proposed Technical Specification changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

As described in the FSAR, the [Safety Evaluation Report] SER, and the Technical Specification BASES for these specifications, the margin of safety is established by precluding a return to critical for a postulated boron dilution event in Mode 5. The boron dilution event has been analyzed using methodology approved for CPSES and the proposed minimum SHUTDOWN MARGIN. The result of this analysis is that the reactor remains subcritical.

Therefore, the proposed Technical Specification changes do not involve a 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: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black, Director

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: August 1, 1991

Description of amendment request: The proposed amendment would correct a number of typographical errors, make some editorial changes, provide clarification and provide internal consistency for the Callaway Technical Specifications (TSs). This proposed change encompasses six separate items which are described in Attachment 1 of the licensee's request and are briefly discussed individually below.

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 staff's review is presented below:

The proposed changes do not involve a significant hazards consideration because operation of the Callaway Plant with these changes would not: 1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Item No. 1

The proposed typographic change of the singular "monitor" to the plural 'monitors" would correct a typographical error. The change does not impact the reliability or availability of plant equipment. The change does not alter the function or capabilities of existing plant equipment.

Item No. 2

The proposed changes described for item 8.a of Table 3.3-4 correctly reflect the values as issued in NPF-30 rather than the incorrect values as issued in an NRC letter dated November 1, 1984. The changes would make minor editorial revisions to the text and provide consistency and clarity to the operators which will help avoid operator confusion. The changes would not impact the reliability or availability of plant equipment.

Item No. 3

The proposed changes described for items 15, 16, and 18 of TS Table 3.3-10 are minor editorial revisions to the text and would provide consistency and clarity to the operators which will help avoid operator confusion. The changes would not impact the reliability or availability of plant equipment.

Item No. 4

The proposed change to the presently less restrictive TS 3.6.4.1 makes an editorial change which would make this

TS section consistent with the more restrictive TS 3.3.3.6. This change would provide consistency and clarity to the operators which will help avoid operator confusion. The change would not impact the reliability or availability of plant equipment. The change would not alter the function or capabilities of existing plant equipment.

Item No. 5

This proposed change would remove the reference to TS Table 3.3-13 which was removed by a previous license amendment in which the text was not revised, thereby correcting a typographical error. The change would not impact the reliability or availability of plant equipment. The change would not alter the function or capabilities of existing plant equipment.

Item No. 6

This proposed change would remove the reference to the title of 'Assistant Superintendent, Operations," which was deleted from the organizational structure of the Callaway Plant as of June 1, 1991. This change is a minor editorial revision, and would not impact the reliability or availability of plant equipment. The change would not alter the function or capabilities of existing plant equipment.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The proposed changes would not create a new type of accident.

3. Involve a significant reduction in a margin of safety. The proposed changes would not involve revisions to the design of the plant nor would they revise any acceptance criteria.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: August 29, 1991

Description of amendment request: The proposed changes would revise the NA-1&2 Technical Specifications (TS) regarding the engineered safety feature actuation system (ESFAS) instrumentation trip setpoint. The proposed change for TS 3/4.3.2, Table 3.3-4 Item 6.e, Station Blackout, is administrative in nature. The trip setpoint and allowable value are currently listed as a percentage of the transfer bus voltage. This would be changed to an actual voltage. The proposed change for TS 3/4.3.2, Table 3.3-4 Items 7.a and 7.b, Loss of Voltage and Degraded Voltage, removes the tolerance values associated with the allowable values. These changes are intended to promote clarity and ease of use of the specification. In addition, the trip setpoints and allowable values for the Loss of Voltage and Degraded Voltage specifications (items 7.a and 7.b of Table 3.3-4) have been revised. The new values for the trip setpoints and the allowable values ensure the continued protection of the ESF equipment from undervoltage conditions while minimizing the possibility of unnecessarily disconnecting from the preferred offsite power sources. The values for the trip setpoints and the allowable values are at least as or more restrictive than the existing TS and are consistent with the regulatory basis for the loss of power and degraded voltage protection and the North Anna Units 1 and 2 Loss of Offsite Power (GDC-17) analysis, while providing additional operating margins for future electrical loads.

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:

Operation of the North Anna Power Station Units 1 and 2 in accordance with these proposed modifications will not:

1. Involve a significant increase in the probability of occurrence or consequences of any accident malfunction of equipment which is important to safety and which has been evaluated in the [Updated Final Safety Analysis Report (UFSAR)]. The change to Item 6.e only affects the nomenclature of the [t]rip [s]etpoints and [a]llowable [v]alues. The changes to Items 7.a and 7.b, Trip Setpoints and the Allowable Values, will ensure undervoltage protection to the safety related equipment and conform to the [l]oss of [o]ffsite [p]ower analysis. The assumptions used in the accident analysis require undervoltage protection to be actuated before voltage on the buses drops below a given value. The [TS] instrument trip setpoints are derived from this value with added conservatisms. The [t]rip [s]etpoints are at least as restrictive as the current requirements and the [a]llowable [v]alues define actual measured bus voltages required by current [l]oss of [o]ffsite [p]ower analyses to assure that ESF [o]perability has been maintained. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different type of accident from those previously evaluated in the safety analysis report. The change to Item 6.e only affects the nomenclature of the [t]rip [s]etpoints and [a]llowable [v]alues. The changes to Items 7.a and 7.b, Trip Setpoints and the Allowable Values, will ensure undervoltage protection to the safety related equipment and conform to the [l]oss of [o]ffsite [p]ower analysis. The assumptions used in the accident analysis require undervoltage protection to be actuated before voltage on the buses drops below a given value. The [TS] instrument trip setpoints are derived from this value with added conservatisms. The [t]rip [s]etpoints are at least as restrictive as the current requirements and the [a]llowable [v]alues define actual measured bus voltages required by current [l]oss of [o]ffsite [p]ower analyses to assue that ESF [o]perability has been maintained. Therefore, the proposed changes will not create the possibility of a new or different kind of accident previously evaluated.

3. Involve a significant reduction in the margin of safety. The change to Item 6.e only affects the nomenclature of the [t]rip [s]etpoints and [a]llowable [v]alues. The changes to Items 7.a and 7.b, Trip Setpoints and the Allowable Values, will ensure undervoltage protection to the safety related equipment and conform the [l]oss of [o]ffsite [p]ower analysis. The assumptions used in the accident analysis require undervoltage protection to be actuated before voltage on the buses drops below a given value. The [TS] instrument trip setpoints are derived from this added conservatisms. The [t]rip [s]etpoints are at least as restrictive as the current requirements and the [a]llowable [v]alues define actual measured bus voltages required by current [l]oss of [o]ffsite [p]ower analyses to assure that ESF [o]perability has been maintained. Therefore, the accident analysis assumptions remain bounding and safety margins remain unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: July 8, 1991

Description of amendment request: The proposed Technical Specification changes would support an increase in the safety analysis enthalpy rise hot channel factor (F delta h) limit to a value of 1.62 and provide changes for implementation of a statistical departure from nucleate boiling ratio (DNBR) evaluation methodology.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because operation of Surry Units 1 and 2 in accordance with [these changes] would not:

- involve a significant increase in the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report. Neither the F delta h limit nor the Statistical DNBR Methodology make any contribution to the potential accident initiators and, thus, cannot increase the probability of any accident. The key safety analysis parameters discussed in this report bound the current operating characteristics of both Surry fuel types. The reanalyses used approved safety analysis procedures, including conservative modelling of system accident response, to ensure that adequate margin to the design limits was preserved. Therefore, neither the accident probability nor the consequences of any accident can increase as a result of the implementation of the Statistical Methodology or F delta h increase. Further, the addition of a full core DNB design limit for [Surry Improved Fuel/WRB-1 DNB Correlation] provides increased assurance that the consequences of a postulated accident, which includes a radioactive release, would be minimized because the overall number of fuel rods in DNB would not exceed the 0.1% level.
- create the possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report. Since the implementation of the proposed reanalyses and F delta h limit increase requires no hardware changes (e.g., alterations in plant configuration), operation with these changes does not create the probability for any accident which has not already been evaluated in the Final Safety Analysis Report [FSAR].
- involve a significant reduction in a margin of safety. The margin of safety is the margin between the design limit (e.g., the DNBR limit or a [loss-of-coolant accident] clad temperature limit) and the point of actual fuel failure. This margin is preserved by insuring that none of the design limits are surpassed for any FSAR accident. The F delta h limit serves to increase margin to reactor vessel material embrittlement limits, since it facilitates the installation of flux suppression inserts in the core periphery. Appropriate evaluations or analyses have verified that none of the design limits have been violated for any FSAR transient, so that there has been 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 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: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Notice Of Issuance Of Amendment To Facility Operating License

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 and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

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 amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments 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, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket No. STN 50-529, Palo Verde Nuclear Generating Station, Unit 2, Maricopa County, Arizona

Date of application for amendment: May 29, 1991

Brief description of amendment: This amendment grants a one-time extension to the current surveillance requirement by allowing functional testing for the snubbers to be deferred until the next refueling outage, scheduled to begin October 17, 1991, but no later than December 17, 1991.

Date of issuance: August 27, 1991

Effective date: August 27, 1991

Amendment No.: Unit 2; 40

Facility Operating License No. NPF-51: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29268) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

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: May 24, 1991, as supplemented on July 1, 1991.

Brief description of amendments: The amendments would revise the Technical Specifications for both units to provide required snubber visual inspection intervals based on the number of

inoperable snubbers found during the previous inspection in proportion to the size of the various snubber populations and categories. This change is based on the approach for determining visual inspection intervals developed in the Nuclear Regulatory Commission's Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," dated December 11, 1990. In addition, the amendments also make various editorial revisions for consistency between Units 1 and 2; removal of unnecessary wording or notes, and updates the Bases Section to support the proposed changes.

Date of issuance: September 4, 1991

Effective date: September 4, 1991

Amendment Nos.: 159 and 139

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29270) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated September 4, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 15, 1991, and supplemented July 1 and August 14, 1991

Brief description of amendments: The amendments revise the Zion Nuclear Power Station Technical Specifications related to the inservice testing of the pressurizer safety valves by incorporating specification 4.0.5 requirements from the Westinghouse Standard Technical Specifications.

Date of issuance: August 28, 1991

Effective date: August 28, 1991

Amendment Nos.: 129 and 118

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27040) The July 1 and August 14, 1991, submittals provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 28, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: July 12, 1991

Brief description of amendment: The amendment revises Surveillance Requirement 3.6.1.2.d of Technical Specification 4.6.1.2, "Containment Leakage" to implement an one-time exemption request to allow exceeding by 4 months the required 24-month surveillance interval for Type B and C testing for Cycle 16 only.

Date of Issuance: August 28, 1991

Effective date: August 28, 1991

Amendment No.: 143

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33953) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: August 1, 1990

Brief description of amendment: This amendment revises the TS by changing the Emergency Core Cooling System response time requirements for the Low Pressure Core Injection mode of the Residual Heat Removal system.

Date of issuance: August 28, 1991

Effective date: August 28, 1991

Amendment No.: 74

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13662) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 8, 1991, as supplemented August 12, 1991

Brief description of amendments: The amendments revise the carbon adsorber test method and methyl iodide penetration criteria along with other administrative changes to the Annulus Ventilation and Control Room Area Ventilation System, the Containment Purge System, the Fuel Ventilation Exhaust System, and the Auxiliary Building Filtered Exhaust System.

Date of issuance: August 23, 1991

Effective date: August 23, 1991

Amendment Nos.: 90, 84

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29271) The August 12, 1991, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination. 1The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 23, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: February 11, 1991

Brief description of amendments: The amendments revise the value for the containment free volume (CFV) currently specified in Technical Specification (TS) 5.2.1 and associated bases. The changes identify a CFV value based on the as-built drawings instead of the preliminary estimates made prior to the completion of the containment.

Date of issuance: August 21, 1991

Effective date: August 21, 1991

Amendment Nos.: 189, 189, 186

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20034) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 21, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: February 7, 1991

Brief description of amendments: The amendments delete the organization charts from Section 6 - Administrative Controls, of the Technical Specifications and associated bases, in accordance with staff guidance provided by NRC Generic Letter 88-06.

Date of issuance: August 30, 1991

Effective date: August 30, 1991

Amendment Nos.: 190, 190, 187

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27042) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 30, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: May 19, 1987 as revised August 22, 1990.

Brief description of amendment: The amendment replaced Operating License Condition (OLC) 2.C.(23) "Fire Protection Program" with OLC 2.C.(41) and relocated Technical Specifications (TS) 3/4.3.7.9 "Fire Detection Instrumentation", 3/4.7.6 "Fire Suppression Systems", 3/4.7.7 "Fire Rated Assemblies", and 6.2.2.e "Site Fire Brigade" from the TS to the Updated Final Safety Analysis Report (UFSAR) in accordance with NRC Generic Letter 88-12. OLC 2.C.(41) references the NRC approved fire protection program in the UFSAR and allows changes to this program provided the changes would not adversely affect fire protection effectiveness. A new requirement is added to TS 6.0 "Administrative Controls" requiring the Plant Safety Review Committee (PSRC) to review changes to the approved fire protection program.

Date of issuance: August 23, 1991

Effective date: August 23, 1991

Amendment No: 82

Facility Operating License No. NPF-29. Amendment revises an Operating License Conditon and the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22465) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: February 22, 1991, as supplemented May 24, 1991.

Brief description of amendment: The amendment changed the Technical Specifications by increasing the required minimum usable fuel oil in the diesel generator fuel oil storage tanks from 57,200 to 62,000 gallons for each of the Division I and the Division II tanks, and from 39,000 to 41,200 gallons for the Division III tank.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment No: 83

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33953) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 25, 1991

Brief description of amendment: This amendment allows a one-time extension of the surveillance interval for performing a channel calibration of certain instrument functions until Refuel 8, which is currently scheduled to begin April 30, 1992.

Date of issuance: August 27, 1991

Effective date: August 27, 1991

Amendment No.: 135

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33956) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: December 19, 1990, as supplemented April 24, June 3 and July 8, 1991.

Brief description of amendments: These amendments revise TS Section 2.2, Limiting Safety Systems Settings, and Section 3/4.3.2, Engineered Safety Features Actuation System Instrumentation, for implementation of the Westinghouse setpoint (five-column approach) methodology.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment Nos. 146, 141

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6874) The April 24, June 3 and July 8, 1991 submittals provided clarifying information which did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: July 2, 1991

Brief description of amendments: These amendments revise the Turkey

Point Units 3 and 4 Technical Specification Section 3/4.8.2, D.C. Sources, to reflect results from the pre-operational testing of the new battery chargers, which were installed as part of the Emergency Power System (EPS) Enhancement Project. Specifically, these amendments revise the surveillance requirements for battery chargers.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment Nos. 147, 142

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33957) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: June 21, 1991

Brief description of amendments: These amendments revise Technical Specification 4.7.2.b to allow heatup to 547° F prior to conducting component cooling water heat exchanger performance tests, while still requiring conduct of the test prior to entering mode 2.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment Nos. 148, 143

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33957) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

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 application for amendments: June 13, 1991

Brief description of amendments: The amendments 1) revise Unit 1 TS 3.10.D and Unit 2 TS 3/4.9.10 and their associated bases to require at least 21 feet of water above irradiated fuel assemblies seated in the spent fuel pool (SFP) fuel storage racks, and revise Unit 1 TS 4.10.D to require surveillance of the SFP water level every 7 days consistent with the Unit 2 TSs and the BWR-4 Standard TSs; 2) revise Unit 1 TS Tables 3.2-11 and 4.2-11 to require that the post-LOCA radiation monitors be calibrated at least once every 18 months; and 3) correct administrative errors in Unit 2 TS Tables 3.3.2-1 and 3.8.2.6-1.

Date of issuance: August 28, 1991

Effective date: within 30 days of issuance

Amendment Nos.: 172 and 112

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1991 (56 FR 29276) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

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 application for amendments: October 9, 1990

Brief description of amendments: The amendments revise the Technical Specifications to reduce the trip setpoint/allowable value for the low water level scram and isolation function approximately 10 inches.

Date of issuance: August 30, 1991

Effective date: August 30, 1991

Amendment Nos.: 173 and 113

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27045) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 30, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: May 14, 1991

Brief description of amendment: The amendment revised the alarm setpoint for the offgas pretreatment noble gas activity monitor in Technical Specification Table 3.3.7.1-1, "Radiation Monitoring Instrumentation," from 2.48 x 104 millirem/hour (mr/hr) to 3410 mr/hr.

Date of issuance: September 5, 1991

Effective date: September 5, 1991

Amendment No.: 60

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27046) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 22, 1991

Brief description of amendments: The amendments change the Appendix A Technical Specifications (TS) by modifying Action Statement 31 in Table 3.3-6 so that neither monitor operability, nor acquiring and analyzing grab samples, are required for the duration of an Integrated Leak Rate Test.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment Nos.: 125 and 15

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15642) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 26, 1991

Brief description of amendments: The amendments change the Appendix A Technical Specifications (TS) by revising TS Surveillance 4.6.1.2 to allow the use of the mass point method as incorporated in ANSI/ANS-56.8-1987, "Containment System Leakage Testing Requirements," to calculate containment integrated leakage rates in accordance with Appendix J to 10 CFR Part 50 as amended on November 15, 1988.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment Nos.: 26 and 16

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15643) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: February 22, 1991 as supplemented June 14, 1991.

Brief description of amendment: The amendment changed the Technical Specifications to revise the surveillance requirements for the fire pumps.

Date of issuance: September 4, 1991

Effective date: September 4, 1991

Amendment No.: 175

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33958) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1991. No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 7, 1991, as supplemented by letter dated July 30, 1991.

Brief description of amendment: The amendment changed the requirements to demonstrate the operability of certain safety equipment when the redundant train or system is declared inoperable to a requirement to verify the operability by an administrative process.

Date of issuance: August 20, 1991

Effective date: August 20, 1991

Amendment No.: 146

Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31438) The additional information contained in the supplemental letter dated July 30, 1991, was clarifying in nature and thus, within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 20, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 25, 1991

Brief description of amendment: The amendment revises the Millstone Unit 3 visual inspection surveillance requirements (Technical Specifications 4.7.10.a and 4.7.10.b) and acceptance criteria (Technical Specifications 4.7.10.c) associated with seismic sway arresters (snubbers).

Date of issuance: September 3, 1991

Effective date: September 3, 1991

Amendment No.: 62

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33959) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: May 19, 1988, as supplemented August 28, 1990, and as superseded December 18, 1990 and supplemented on May 10, 1991.

Brief description of amendment: The amendment revises Technical Specifications Sections 3.3, 4.5 and 6.9 to incorporate requirements for the redundant toxic gas monitoring systems. These proposed Technical Specifications follow the guidance and intent of NUREG-0737, Item III.D.3.4, "Control Room Habitability" and Generic Letter 83-37, NUREG-0737 Technical Specifications." Some pages are issued with no changes other than retyping for format consistency.

Date of issuance: August 28, 1991

Effective date: August 28, 1991

Amendment No.: 108

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18413) and renoticed February 6, 1991 (56 FR 4869) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: August 31, 1990, and supplemented on April 2, 1991.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate revised pressure-temperature limits. These changes are in accordance with NRC Generic Letter 88-11. In addition, several typographical errors were corrected in the Bases and some pages are issued with no changes other than retyping for format consistency.

Date of issuance: August 28, 1991

Effective date: August 28, 1991

Amendment No.: 109

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40472) The Commission's related evaluation of

the amendment is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: March 18, 1991

Brief description of amendment: This amendment revises the technical specifications to increase the allowable maximum enrichment of reload fuel assemblies to 5.0 weight percent uranium - 235 from the current 3.5 weight percent uranium - 235.

Date of issuance: August 27, 1991

Effective date: August 27, 1991

Amendment No.: 6

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24218) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 27, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: June 12, 1991

Brief description of amendment: This amendment incorporated into Section 4.2.1, Aquatic Monitoring, of the Environmental Protection Plan, Appendix B of the Hope Creek Generating Station license, the aquatic monitoring requirements to minimize the impact of the station operation on sea turtles.

Date of issuance: September 5, 1991

Effective date: September 5, 1991

Amendment No. 143

Facility Operating License No. NPF-57. This amendment revised the License.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33960) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: June 20, 1991

Brief description of amendments: These amendments modified Technical Specification Section 3.5.1, Surveillance Requirement 4.5.1.c. The current surveillance requires verification that power to the safety injection accumulator isolation valves is disconnected by removal of the breaker from the circuit. The control power lockout switches were recently modified to provide the necessary protection against single active failure, thus removal of the breaker from the circuit is unnecessary.

The proposed amendment also modified the applicability of Surveillance Requirement 4.5.1.c to agree with the applicability of the specification. The specification is applicable when plant pressure is above 1000 psig and the surveillance requirement is applicable whenever plant pressure is above 2000 psig. This change will make the surveillance requirement applicable whenever plant pressure is above 1000 psig.

Date of issuance: September 5, 1991

Effective date: Both units, as of the date of issuance and shall be implemented within 60 days of the date of issuance.

Amendment Nos. 130 and 109

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33960) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 5, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: October 16, 1985, as supplemented on January 14, 1991.

Brief description of amendment: This amendment revises containment internal pressure limitations to be consistent with the initial conditions assumed in the Westinghouse Electrical Corporation's Boric Acid Storage Tanks (BAST) analysis and the Rochester Gas and Electric Corporation's containment integrity analysis.

Date of issuance: August 28, 1991

Effective date: August 28, 1991

Amendment No.: 45

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49792). The information in the January 14, 1991, supplemental letter was not outside the scope of the October 16, 1985, notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendment: October 30, 1990

Brief description of amendment: These amendments change the BFN technical specifications and revise the bases section for flood protection to be consistent with the FSAR. They are being made to resolve open issues from NRC inspection reports, to resolve an open item in an NRC safety evaluation, and to correct errors in previous technical specification submittals and implementation.

Date of issuance: August 23, 1991

Effective date: August 23, 1991

Amendment Nos.: Unit 1 - 185; Unit 2 - 198; Unit 3 - 157

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27049) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: December 14, 1989

Brief description of amendment: The amendment revised Technical Specification 4.3.8.2 by changing the surveillance frequency for the turbine control valves from weekly to monthly.

Date of issuance: August 22, 1991

Effective date: August 22, 1991

Amendment No. 38

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4282) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 1, 1991

Brief description of amendment: This amendment increased the allowed secondary containment bypass leakage rate from 0.015. La to 0.03 La, relocated the list of secondary containment bypass leakage paths (TS Table 3.6-1) from the TS to the Updated Safety Analysis Report (USAR), and deleted surveillance requirements for types of containment penetrations and containment isolation valves which are not incorporated in the DBNPS design.

Date of issuance: August 23, 1991

Effective date: August 23, 1991

Amendment No. 160

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24219) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 1, 1991 as supplemented by telecon of July 26, 1991.

Brief description of amendment: The amendment revised the snubber surveillance schedule.

Date of issuance: August 26, 1991

Effective date: August 26, 1991

Amendment No. 161

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24219). The supplemental information received by telecon on July 26, 1991 did not affect the scope of the initial notice or the Commission's proposed no significant hazards consideration analysis. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: February 1, 1990

Brief description of amendment: The amendment revised the control rod assembly position indication acceptance criteria. Additionally, some administrative changes affecting the phrasing were made. The applicable bases were expanded to provide a more detailed discussion of the revised acceptance criteria.

Date of issuance: September 4, 1991

Effective date: September 4, 1991

Amendment No. 162

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13670) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: October 12, 1989

Brief description of amendments: These amendments replace the portion of the control rod drop time test frequency requirement associated with "the breach of the reactor coolant system integrity" with conditions similar to the Westinghouse Standard Technical Specifications.

Date of issuance: August 19, 1991

Effective date: August 19, 1991

Amendment Nos. 161 and 160

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10547) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 19, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: December 22, 1989

Brief description of amendments: These amendments restore the allowed total leakage specification for the recirculation spray system that was inadvertently deleted by

Amendment Nos. 128 and 128. In addition, Table 4.11-1, which showed how the estimated leakages for the safety injection system were derived, is deleted; however, the allowed total safety injection system leakage is retained. Finally, requirements have been added to periodically verify that the total system leakages are within the allowed limits.

Date of issuance: September 2, 1991

Effective date: September 2, 1991

Amendment Nos. 162, 161

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6123) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: August 1, 1989, supplemented March 29, 1990 and July 17, 1991

Brief description of amendments: The amendments revised Technical Specification 15.6, Administrative Controls to document changes to staff organization and to remove organization charts from the Technical Specifications.

Date of issuance: September 4, 1991

Effective date: September 4, 1991

Amendment Nos.: 128 and 132

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24223) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 4, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 11th day of September 1991.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 91-22353 Filed 9-17-91; 8:45 am]

BILLING CODE 7590-01-D

GPU Nuclear Corporation, Jersey Central Power & Light Company; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-16 issued to GPU Nuclear Corporation et al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the Technical Specifications Table 4.15-2, Items 2a and 3a, regarding the channel functional test requirements for the Main Stack and Turbin Building Vent Radioactive Gaseous Effluent Monitoring Systems.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated April 25, 1991.

Need for the Proposed Action

The proposed changes to the Facility Operating License are needed because the existing specifications apply to equipment that has been replaced with updated monitoring equipment. The licensee stated that the existing Technical Specifications are adequate, but that the proposed change more accurately reflects the requirements of the newly installed monitors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications Table 4.15-2, Items 2a and 3a regarding the channel functional test requirements for the Main Stack and Turbine Building Vent Radioactive Gaseous Effluent Monitoring Systems.

Based on its review, the Commission concludes that the proposed changes are acceptable. The NRC staff has determined that the proposed changes do not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems utilized to mitigate the design basis accidents.

The proposed changes do not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve components in the plant which are located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concludes that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The NRC staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated April 25, 1991, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555 and the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 11th day of September 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-22445 Filed 9-17-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-148]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling of and Disposition of Component Parts; University of Kansas

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order authorizing the University of Kansas (UK) to dismantle their research reactor facility located on the licensee's campus in Lawrence, Kansas and to dispose of the reactor components in accordance with the application dated December 17, 1990.

Environmental Assessment

Identification of Proposed Action

By application dated December 17, 1990, UK requested authorization to decontaminate and dismantle the UK research reactor, to dispose of its components parts in accordance with the proposed decommissioning plan, and to terminate Facility License No. R-78. The University of Kansas research reactor was shut down in June 1984, and has not operated since then. Following reactor shutdown, the fuel was removed from the core and shipped to a Department of Energy (DOE) Facility as directed by the DOE in accordance with DOE, NRC, and Department of Transportation requirements.

Opportunity for hearing was afforded by a "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on April 22, 1991 (56 FR 16349). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

Need for Proposed Action

In order to prepare the property for unrestricted access and use, the dismantling and decontamination activities proposed by the University of Kansas must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The UK staff has calculated that the collective does equivalent to the UK staff and public for the project will be less than 3 person-rem.

The above conclusions were based on all proposed operations being carefully planned and controlled, all contaminated components being removed, packaged, and shipped offsite, and that radiological control procedures will be in place that help to ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the University of Kansas facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

The staff has also determined that the proposed activities will not result in any significant impacts on air, water, land, or biota in the area.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain possession of the reactor. This approach would include monitoring and reporting for the duration of the safe storage period. However, the University of Kansas intends to use the area for other academic purposes.

Agencies and Persons Consulted

The Idaho National Engineering Laboratory (INEL) assisted the NRC staff in reviewing the licensee's request.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conclude that the proposed action will not have a significant effect on the quality of the human environment.

For detailed information with respect to this proposed action, see the application for dismantling, decontamination and license termination dated December 17, 1990, and the safety Evaluation prepare by the staff. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 10th day of September 1991.

For the Nuclear Regulatory Commission.

Richard F. Dudley,

Acting Director Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-22350 Filed 9-17-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 35th meeting on September 27, 1991, 8:30 a.m.—5 p.m., room P-110, 7920 Norfolk Avenue, Bethesda, MD. The entire meeting will be open to the public.

The agenda for the subject meeting shall be as follows:

A. Discuss items of mutual interest with the Director of NRC's Office of Nuclear Material Safety and Safeguards.

B. Discuss and prepare comments on Regulatory Guides that implement the revised 10 CFR part 20, Standards For Protection Against Radiation.

C. Discuss ACNW thoughts on the overall subject of the management and disposal of low-level radioactive wastes.

D. Discuss a systems analysis approach to the interim storage of spent fuel.

E. Discuss Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: September 12, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91-22450 Filed 9-17-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Performance Management and Recognition System Review Committee Meeting

The Office of Personnel Management announces the following meeting:

Name: Performance Management and Recognition system Review Committee Meeting.

Date and Time: September 26, 1991, 9 a.m. to 4 p.m.

Place: Room 2452, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001.

Type of Meeting: Open.

Point of Contact: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington DC 20415-0001.

Purpose of Meeting: To review the Performance Management and Recognition system and make recommendations for a fair and effective performance management system for Federal managers.

Agenda: Committee goals and objectives; basic issues and challenges facing the committee; committee administration; comments and observations; public input; closing.

SUPPLEMENTARY INFORMATION: At its September 10, 1991 meeting (notice published in the **Federal Register** on July 18, 1991), the committee could not complete the day's agenda. The committee decided to convene an emergency meeting to complete the business of September 10. An additional meeting is necessary to complete the remainder of the meetings on schedule and to meet the committee's deadline for submission of recommendations to the Director of the Office of Personnel Management by November 5, 1991.

The committee welcomes written data, views, or comments concerning systems for managing and recognizing the performance of Federal managers. All such submissions received by close of business (COB) on September 24, 1991, will be provided to the committee members and included in the record of the meeting. If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at a meeting should submit a written request to be heard by the deadline listed above. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

All communications regarding this committee should be addressed to the Point of Contact named above.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-22422 Filed 9-17-91; 8:45 am]

BILLING CODE 6325-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Forest Lakes, El Paso County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice

SUMMARY: Notice is hereby given that the property known as Forest Lakes located in El Paso County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Rory Johnson, Resolution Trust Corporation, Minneapolis Consolidated Office, 3400 Yankee Drive, 4th floor, Eagan, MN 55122, (612) 683-4400, Fax (612) 683-4580.

SUPPLEMENTARY INFORMATION: The property is located just off of and west of interstate Highway 25 (I-25) on Baptist Road north of Colorado Springs, El Paso County, Colorado. The property is located north of the U.S. Air Force Academy and south of Monument Lake, Colorado. The western boundary of the property abuts Pike National Forest. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of approximately 897.04 acres of undeveloped land which includes 2 lakes, one lake being about 63 acres in size and the other about 12 acres. The property was originally part of a 1,400 acre master planned development comprised of three land parcels. This particular parcel was designated as the residential parcel and is not contiguous with the other parcels that comprise the master planned development.

Property size: Approximately 897.04 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to Rory the above **ADDRESSES** and in the following form;

Notice of Serious Interest re: Forest Lakes

Federal Register Publication Date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-22387 Filed 9-17-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Harbor Point, Bay County, FL

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Harbor Point in Bay County, Florida, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious intent to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Andrew S. Hamrick, Resolution Trust Corporation, Southeast Consolidated Office, P.O. Box

20587 (33622–0587), Tampa, FL 33607, (813) 870–7219, Fax (813) 870–7130.

SUPPLEMENTARY INFORMATION: The property is approximately 232.35 acres of undeveloped land bisected by U.S. Highway 98 and located in an unincorporated area just west of Mexico Beach, Bay County, Florida. The property borders the Gulf of Mexico on the south and Tyndall Air Force Base (AFB) Reservation on the west. The AFB facility itself consists of approximately 9,000 acres and is surrounded by an additional 17,000 acres of land managed for open space and sanctuary conservation purposes. Approximately 2,800 acres of the eastern portion of the Reservation immediately bordering the property is administered for public recreation and portions are managed for the protection of federally endangered species. The southern portion of the property is also located within the P31 unit of the Coastal Barrier Resources System which is also known as the St. Andrew Complex. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The Harbor Point property, also known as St. Michael's Landing, consists of gently rolling sand dunes near the Gulf beach with vegetation such as sea oats and wire grass. North of the beach area, vegetation includes pine trees, scrub oaks and dense underbrush. Low wetland slough areas with dense marsh grass is interspersed throughout the tract. A coastal construction control line established by the Florida Department of Natural Resources runs parallel to the Gulf with a set-back line from the waters edge of roughly 400 to 482 feet where development is restricted. It is likely that federally endangered species may occur on the property.

Property size: Approximately 232.35 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to Andrew S. Hamrick at the above **ADDRESSES** and in the following form:

Notice of Serious Interest Re: Harbor Point

Federal Register Publication Date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91–22382 Filed 9–17–91; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Highway 301 Land, Hillsborough County, FL

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Highway 301 Land located in Hillsborough County, Florida is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contracting the following person: Andrew S. Hamrick, Resolution Trust Corporation, Southeast Consolidated Office, P.O. Box 20587 (33622–0587), Tampa, FL 33607, (813) 870–7219, Fax (813) 870–7130.

SUPPLEMENTARY INFORMATION: The property is located along the west side of U.S. Highway 301 across from Bonita Drive, approximately 2.5 miles south of Sun City Boulevard (S.R. 674), Hillsborough County, Florida. The eastern portion of the property is cleared but dense vegetation exists on the western portion of the property making access difficult. The property is located directly adjacent to the Little Manatee River State Park which is managed for recreational purposes. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of about 228.07 acres of undeveloped land and is partially covered with dense vegetation. The property is basically level with approximately 25 acres of wetlands and has running through it Cross Creek which feeds into the Little Manatee River. The adjacent property to the south is the Little Manatee River State Park.

Property size: Approximately 228.07 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to Andrew S. Hamrick at the above **ADDRESSES** and in the following form:

Notice of Serious Interest re: Highway 301 Land

Federal Register Publication Date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-22384 Filed 9-17-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Lees Land, Maricopa County, AZ

AGENCY: Resolution Trust Corporation

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Lees Land located in Maricopa County, Arizona, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contracting the following person: Joanne Burroughs, Resolution Trust Corporation, Central Western Consolidated Office, 2910 North 44th Street, Phoenix, AZ 85018, (602) 381-3460, Fax (602) 954-9549.

SUPPLEMENTARY INFORMATION: The property is underdeveloped and located at the northeast corner of the Shea Boulevard and the 144th Street alignments, just east of the Mayo clinic, in the city of Scottsdale, Maricopa County, Arizona. Approximately one-half of the property is precluded from development and subject to the City of Scottsdale's Hillside Conservation District. The property is contiguous to the east with an area owned by the City of Scottsdale and administered for open space preservation. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.S. 1441a-3).

Characteristics of the property include: The property is irregularly shaped and consists of approximately 132.5 acres, of which 66.4 acres is unusable for development and subject to the City of Scottsdale's Hillside Conservation District. The unusable portion of the property contains a hill, is covered with native desert vegetation, and is contiguous with an open space area owned by the City of Scottsdale. The remaining 66.1 acres remains undeveloped but is platted and zoned for a mixed use residential development with 92 single family lots and 120 townhouse lots.

Property size: Approximately 132.5 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust corporation at the address stated above.

Those entities eligible to submit written notices of serious interest area:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

"Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to Joanne Burroughs at the above **ADDRESSES** and in the following form:

Notice of Serious Interest Re: Lees land

Federal Register Publication date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

Wiliam J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-20386 Filed 9-17-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; La Concha Property, Nueces County, TX

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as La Concha located on Mustang Island in Nueces County, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Dennis W. Kirsch, Resolution Trust Corporation, Southern Consolidated Office, 10100 Reunion Place, 4th floor, San Antonio, TX 78216, (512) 524-4886, Fax (512) 524-7166.

SUPPLEMENTARY INFORMATION: The property is undeveloped and located along Park Road 53 at Beach Access Road Two on Mustang Island in Nueces County, Texas. The property is between Corpus Christi Bay on the east and the Gulf of Mexico on the west with frontage on both bodies of water. The southern boundary of the property abuts the Mustang Island State Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is over 1,000 acres in size, undeveloped, and consists of mainly open grassy land with sandy open beach areas along the waterfronts. Sand dunes exist adjacent to the Gulf frontage and development is restricted by Nueces County within 1,000 feet of the mean high tide line. The property is prone to flooding and a significant portion of the tract has been designated as being wetland. It is also likely that the property may provide nesting habitat for federally endangered sea turtles.

Property size: Approximately 1,000.108 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to Dennis W. Kirsch at the above **ADDRESSES** and in the following form:

Notice of Serious Interest Re: La Concha Property

Federal Register Publication Date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-22385 Filed 9-17-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Occoquan, Fairfax County, VA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Occoquan, Fairfax County, Virginia, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 17, 1991.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: William M. Ruff, Resolution Trust Corporation, Mid-Atlantic Consolidated Office, 100 Colony Square, suite 1400, Atlanta, GA 30361, (404) 881-5059, Fax (404) 881-5162.

SUPPLEMENTARY INFORMATION: The property is located along the northern river edge of the Occoquan Reservoir three miles east of Interstate Highway 95 (I-95) with its northern boundary on Route 123 in Fairfax County, Virginia. The majority of the site is wooded and the terrain includes steep hills. The property is within 750 feet of property owned by the Northern Virginia Regional Park Authority on the west side. The property is affected by section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of approximately 204.65 acres of undeveloped land with mostly wooded steep terrain. About 1,000 feet of the property borders the Occoquan River Reservoir which is used for recreational purposes and provides a source of drinking water for local communities. The property is within 750 feet of land owned by the Northern Virginia Regional Park Authority and is subject to restrictions on development under the Chesapeake Bay Water and Conservation Act adopted by Fairfax County.

Property size: Approximately 204.65 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 17, 1991 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 17, 1991 to William M. Ruff at the above **ADDRESSES** and in the following form:

Notice of Serious Interest re: Occoquan

Federal Register Publication Date:

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1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 11, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-22383 Filed 9-17-91; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29674; File No. SR-DTC-91-20]

Self-Regulatory Organizations; The Depository Trust Co.; Filing of Proposed Rule Change Relating to the Inter-Broker Option in the Institutional Delivery and International Institutional Delivery Systems

September 11, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1991, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-DTC-91-20) as described in Items I, II, and III below, which items have been prepared by DTC. 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 involves the Inter-Broker option in the Institutional Delivery ("ID") System and the International Institutional Delivery ("IID") System of DTC as set forth in the procedures attached as exhibit 2 to the above-referenced filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and statutory 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will enable ID and IID broker-dealers to exchange trade data for transactions that will settle outside the automated settlement systems. Each broker-dealer will submit trade data to DTC and will receive a confirmation from DTC reflecting the trade data submitted by the other

broker-dealer. These confirmations will replace trade comparisons that are currently exchanged between broker-dealers by messenger, mail, telecopier, or telex. The transaction reflected in the two confirmations will not be affirmed or settled in the ID or IID systems.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(f) of the Act and the rules and regulations thereunder applicable to DTC in that the proposed rule change promotes the prompt and accurate clearance and settlement of transactions in securities. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since the proposed rule change will be implemented as an option in DTC's ID and IID systems. DTC's systems are capable of handling all foreseeable increases in transaction volume associated with the proposed rule change.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was developed at the request of DTC participants. Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

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 DTC 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. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-91-20 and should be submitted by October 9, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-22390 Filed 9-17-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18308; 812-7483]

Cash Equivalent Fund et al.; Application

September 12, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Cash Equivalent Fund, Kemper Money Market Fund, Cash Account Trust, Tax-Exempt California Money Market Fund (the "MMFs"); Kempter Financial Services, Inc. ("KFS"); and Investors Fiduciary Trust Company ("IFTC").

RELEVANT SECTION OF THE ACT: Applicants seek an order under section 11(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order of the Commission under section 11(a) of the Act approving offers of exchange between the MMFs and non-money market funds outside the MMFs' group of investment companies on a basis other than the relative net asset values of the securities to be exchanged.

FILING DATES: The application was filed on March 5, 1990, and amended on March 1, 1991, July 3, 1991, and September 4, 1991.

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 October 7, 1991 and should be accompanied by proof of service on the 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 120 South LaSalle Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272-3035, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each MMF is a money market fund registered under the Act as an open-end management investment company that sells its shares without a sales load. Each MMF (except Tax-Exempt California Money Market Fund ("TECMMF")) is a series investment company that offers investors a money market portfolio, a government securities portfolio, and a tax-exempt portfolio. TECMMF currently offers a single tax-exempt portfolio. The requested order also would extend to subsequently-created money market open-end management investment companies advised by KFS.

2. KFS, a wholly-owned subsidiary of Kempter Financial Companies, is a registered broker-dealer that is the investment adviser and principal underwriter to each MMF. Various broker-dealers distribute shares of the MMFs. IFTC, a Missouri Trust Company, is owned jointly by KFS and a company unaffiliated with KFS called DST Systems, Inc. IFTC is the transfer agent to the MMFs, and provides custodial and transfer agency services to other investment companies.

3. Each "Participating Fund" would be a non-money market open-end management investment company that:

(a) Does not include both taxable and tax-exempt money market portfolios, or (b) includes money market portfolios that, in the judgment of the principal underwriter of the Participating Fund, would not serve shareholders' needs as fully as would the MMFs. Each Participating Fund would employ IFTC or another entity as its transfer agent. Shares of some of the Participating Funds may be sold subject to a sales load. The Participating Funds would belong to a "group of investment companies," as defined in rule 11a-3 under the Act, other than the one to which the MMFs belong.

4. If the requested order is granted, shareholders of a Participating Fund could exchange their shares for shares of a MMF, and thereafter exchange such MMF shares for shares of that Participating Fund or, to the extent permitted by Applicants and the principal underwriter of such Participating Fund, for shares of a different Participating Fund that is part of the same "group of investment companies" as such Participating Fund. A MMF shareholder seeking to exchange his or her shares would have to establish an account with a Participating Fund, or be formally acknowledged as a potential investor in a Participating Fund.[1] Applicants' share exchange program would not permit shares of one Participating Fund to be exchanged directly for shares of another Participating Fund, nor would the program allow a shareholder of one Participating Fund group to acquire shares of a Participating Fund in a different group.

5. The tasks involved in processing Applicants' share exchanges (*e.g.*, adjusting shareholder records, collecting appropriate sales loads) would be performed by only one entity with respect to any given exchange. That entity would be either IFTC or the transfer agent ordinarily used by the Participating Fund, but in any event, the single entity would possess all information concerning the exchanging shareholder necessary to conduct the exchange accurately in accordance with rule 11a-3.

6. Any sales load payable in connection with Applicants' share exchange program will be paid to the principal underwriter for the Participating Fund involved in the exchange, which may reallow some or all of the sales load to a selling broker/dealer (*i.e.*, a broker/dealer entitled to a portion of the sales load from the principal underwriter as a dealers' reallowance). Applicants also may impose an administrative and/or redemption fee, as permitted under rule 11a-3. The only compensation that would be payable directly by an exchanging shareholder to IFTC or the other transfer agent would be an administrative fee or other charges allowed by rule 11a-3. KFS would receive no fee or other compensation directly from an exchanging shareholder.

Applicants' Legal Analysis

1. Section 11(a) of the Act provides, among other things, that "[i]t shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made." Applicants' offers of exchange require Commission approval under section 11(a), because the imposition of sales loads and other fees will result in the share exchanges not being made at relative net asset value.

2. Rule 11a-3 under the Act provides that, notwithstanding section 11(a), a registered open-end investment company or its principal underwriter making an exchange offer may cause a securityholder to be charged a sales load on the security acquired in the exchange, a redemption fee, an administrative fee, or any combination of the foregoing, provided certain conditions are met. One of these conditions is that the exchange offer must be made only to securityholders in investment companies that are within a single "group of investment companies." Rule 11a-3 defines "group of investment companies" as "any two or more registered open-end investment companies that hold themselves out to investors as related companies for purposes of investment and investor services, and (i) [t]hat have a common investment adviser or prinicpal underwriter, or (ii) [t]he investment adviser or principal underwriter of one of the companies is an affiliated person as defined in section 2(a)(3) of the Act (15 U.S.C. 80a-2(a)(3)) of the investment adviser or principal underwriter of each of the other companies." Thus, applicants cannot rely on rule 11a-3, because the MMFs and the Participating Funds will not have common or affiliated investment advisers or principal underwriters, and therefore will not be within a single "group of investment companies."

3. Applicant's share exchange program will be conducted in accordance with rule 11a-3 in all respects, except for the "group of investment companies" requirement. Applicants believe that the "group of investment companies" requirement was included in rule 11a-3 because all but one of the exemptive orders under section 11(a) issued prior to the adoption of rule 11a-3 involved related investment companies. Even thought the Participating Funds will not be within the same group of investment companies as the MMFs, Applicants do not believe the proposed share exchange program will present any unusual operational or administrative difficulties because only one entity, either IFTC or the other transfer agent, will process any given exchange. In this capacity, IFTC or the other transfer agent will monitor the payment of and collect sales loads, administrative fees, and redemption fees. Performing those duties will involve a variety of specific tasks, such as making appropriate changes to the shareholder records of the MMFs and the Participating Funds. Thus, IFTC or the other transfer agent will be well-positioned to assure that sales loads and other fees are assessed in accordance with rule 11a-3.

4. Applicants contend that their share exchange program will benefit Participating Fund and MMF shareholders in several ways. First, according to the Applicants, the principal underwriters of some of the Participating Funds have not organized money market portfolios for their own fund groups because they assume that the asset size of such portfolios would be too small to achieve competitive yields for their shareholders or satisfactory returns for their sponsors. Thus, the exchange program will give shareholders in the Participating Funds ready access to the taxable and tax-exempt money market portfolios operated by the MMFs. Moreover, MMF shareholders will benefit from the

[1] In some cases, it may be desirable for an investor to establish an account with a MMF pending selection of a particular fund within a Participating Fund group or pending a decision as to the appropriate time of investment. In these cases, the fact that the investor in the MMF is a potential investor in the Participating Fund group will be noted on the records of the transfer agent that eventually would process the exchange, based upon information provided by the financial services firm processing the purchase.

economies of scale that would result from the expected increase in assets of the MMFs once the exchange program commences. Finally, linking the MMFs to the Participating Funds through the exchange program will allow a shareholder's redemption proceeds to be reinvested in shares of another fund without delay.

Applicants' Conditions

The Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. IFTC or the other transfer agent conducting the exchange will be responsible for tracking the payment of sales loads, administrative fee and redemption fees by shareholders of investment companies or portfolios covered by the application, and otherwise will conduct share exchanges in accordance with Applicants' representations.

2. Offers of exchange pursuant to Applicants' exchange program will be conducted in accordance with rule 11a-3 of the Act, except for that Rule's requirement that an offering company make an exchange offer only to the holder of a security of the offering company, or of another open-end investment company within the same group of investment companies as the offering company.

3. Any principal underwriter or investment company relying on the requested order in order to participate in Applicants' exchange program will adopt and enforce internal control procedures that are designed to assure the program's compliance with all applicable provisions of rule 11a-3 under the Act.

4. Any principal underwriter or investment company relying on the requested order in order to participate in Applicants' exchange program will, in connection therewith, comply with all applicable provisions of rule 11a-3 and the representations and conditions of any applicable exemptive order, and will monitor actively consumer complaints and other indicators of possible improprieties in connection with Applicants' exchange program.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-22451 Filed 9-17-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1480]

Fishermen's Protective Act Procedure: Fee for the Agreement Year

ACTION: Announcement of Fiscal Year 1992, Program Operation and Fees.

SUMMARY: Section 7 of the Fishermen's Protective Act of 1967, as amended, requires fees from participating vessel owners for deposit into the Fishermen's Guaranty Fund. These fees partially fund a program which compensates fishing vessel owners for certain losses they have incurred when their vessels have been seized by foreign nations under certain circumstances. This notice announces the operation of the Fishermen's Guaranty Fund for fiscal year 1992 (October 1, 1991 through September 30, 1992) for all vessels without payment of a fee.

EFFECTIVE DATE: October 1, 1991–September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. H. Stetson Tinkham, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, Washington, DC 20520-7818, telephone number (202) 647-1948.

SUPPLEMENTARY INFORMATION: The Fishermen's Guaranty Fund, under section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980), (the "Act") compensates U.S. fishing vessel owners who have entered into guaranty agreements for certain losses caused by a foreign country's seizure or detention of a U.S. fishing vessel based on claims to jurisdiction not recognized by the United States or exercised in a manner inconsistent with international law as recognized by the United States. The operation of the Fund in Fiscal Year 1992 without requiring payment of a fee for the 1992 agreement year is predicated on the following factors:

(1) There is a current unexpended balance in the Fund and no new claims have been certified for payment in the past 3 fiscal years.

(2) On March 23, 1989, the United States District Court for the Southern District of California, in the Memorandum Decision MV *Brenda Jolene et al.* v. *United States of America*, found that the amount of the fee should be based on a percentage of what the U.S. Government seeks in appropriations for the Fund rather than based solely on what the demands against the Fund are anticipated to be.

The Administration did not request, and the Congress did not make, an appropriation for the Fishermen's Guaranty Fund. Therefore, because there will be no direct appropriations for the Fund, and because fee collection must be equal to or less than the appropriated amount for the fiscal year in question, the Fishermen's Guaranty Fund will not collect fees as a requisite for coverage under the Fund in Fiscal Year 1992.

Agreement holders for the fiscal year October 1, 1990 through September 30, 1991, may renew their agreements by submitting two copies of a signed Application for Agreement form. U.S. fishing vessel operators who did not participate last year may submit two signed Application for Agreement forms, two signed Guaranty Agreement forms (page one left blank), and a U.S. Coast Guard form CG-1330, "Certificate of Ownership of Vessel", in order to enter into a guaranty agreement for the fiscal year 1992.

Program coverage will commence one day after the postmark date of the application submission for those presently covered under the Fund. For those new to Fund, coverage will commence one day after the postmark date if the vessel application and agreement are accepted.

For the purpose of this notice, postmark means the date and time the U.S. Postal Service cancels postage.

Changes in U.S. Law and Policy

Recent amendments to the Magnuson Fishery Conservation and Management Act (Pub. L. 101-627) eliminate the exclusion of highly migratory species of tuna from the exclusive fishery management authority asserted by the U.S. in our exclusive economic zone (EEZ). As a result, the United States will assert management authority over tuna in its EEZ. Participants should be aware that in signing this law, the President stated that "as a matter of international law, effective immediately the United States will recognize similar assertions by coastal regions regarding their exclusive economic zones." (Statement of the President, November 28, 1990)

Claims for detentions or seizures based on claims to jurisdiction exercised in a manner inconsistent with international law as recognized by the United States may, however, still be certified by the Department.

Classification

This action is taken under the authority of 22 U.S.C. 1977, and complies with Executive Order 12291. It does not contain any collection of information requirement, as defined in the Paperwork Reduction Act.

As a "matter relating to Agency * * * contracts," this notice is exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This means analysis under the Regulatory Flexibility Act is not required.

Dated: August 27, 1991.

For the Secretary of State.

Richard J. Smith,

Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 91-22243 Filed 9-17-91; 8:45 am]

BILLING CODE 4710-09-91

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

New Route Opportunities (Paris-Greece)

Under the new Air Transport Agreement between the United States and Greece, signed July 31, 1991, only one U.S. carrier designated on Route D of the Agreement may exercise traffic rights between Paris and Greece. Route D of the U.S.-Greece Air Transport Agreement enables the U.S. to:

designate airlines to operate service from U.S. points other than New York via Belgrade, Berlin, Budapest, Frankfurt, Hamburg, Ireland, Paris, Rome and Warsaw, to points in Greece and beyond to Bombay, Cairo, Karachi, New Delhi and Tel Aviv.[1]

United Air Lines has notified the Department that it holds the requisite operating authority to serve the U.S.-Greece and Paris markets and requests that we notify the Greek Government that United will exercise the Fifth Freedom traffic rights between Paris and Greece provided for in the agreement. Since, by the terms of the agreement, only one carrier can be so designated, before we designate any airline for this service, we are requesting applications from all U.S. certificated carriers that are interested in performing the services afforded by Route D via Paris.

Carriers without the requisite U.S.-Greece/France operating authority may file certificate and/or exemption applications to serve the points listed above no later than September 24, 1991; competing applications and answers shall be due no later than September 30, 1991; and responsive pleadings no later than October 7, 1991.[2] Carriers already holding requisite underlying U.S.-Greece/France operating authority should request designation by the certificate application date.

Except for the filing dates, certificate applications should be filed pursuant to subpart Q of part 302, and exemption applications should conform to subpart D of part 302 of the Department's regulations. Applications should be filed with the Department's Docket Section, room 4107, 400 Seventh Street, SW., Washington, DC 20590. Designation applications should be filed with the Office of International Aviation, P-40, room 6402, at the same address and should specify the markets to be served, the proposed startup date and evidence of the carrier's underlying economic authority, including route integration authority. Further procedures for acting on the applications filed, if necessary, shall be established in a future Department order.

Dated: September 12, 1991.

Paul L. Gretch,

Director, Office of International Aviation.

[FR Doc. 91-22434 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-62-M

[1] The Air Transport Agreement between the United States and Greece stipulates that on Route D, the United States may designate only one airline to serve from Boston and only one airline to serve from Chicago; that a maximum of seven weekly frequencies may be operated from Boston and also from Chicago; and that only one airline designated on Route D may serve Paris.

[2] Regarding applications for authority to serve France, see Order 85-4-42.

Federal Highway Administration

Environmental Impact Statement: St. Clair and Madison Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for construction of Illinois Route 3 as a four-lane highway on new alignment. The proposed project will extend from the Monsanto Avenue intersection in Sauget in St. Clair County, northerly to the Broadway intersection in Venice in Madison County, Illinois. The proposed project would be designated Federal Aid Primary Route 14 (FAP 14).

FOR FURTHER INFORMATION CONTACT:

Mr. James C. Partlow, Project Development and Implementation Engineer, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, phone (217) 492-4622.

Mr. Dale L. Klohr, District Engineer, Illinois Department of Transportation, District 8, 1100 Eastport Plaza Drive, Collinsville, Illinois 62234, phone (618) 346-3110.

SUPPLEMENTARY INFORMATION: The Proposed Action is to construct Illinois Route 3 as a four-lane highway facility on new alignment along the easterly Mississippi River riverfront in St. Clair and Madison Counties, Illinois. The proposed project will extend from the existing Monsanto Avenue intersection in Sauget in St. Clair County and run northerly to the Broadway intersection in Venice in Madison County, a distance of 5.0 miles.

The need for upgrading Illinois Route 3 is based on the transportation demands, safety considerations, enhancement of economic development, and improved access to existing and potential development along the riverfront.

It is anticipated that the proposed project will be constructed as a partial access controlled facility. Interchanges or intersections will be provided at all major high-volume roadways. Several alignment alternatives will be evaluated for the proposed project including the no-action alternative.

An informal scoping process will be undertaken as a part of this proposed project. The process will include meetings, informal coordination, review sessions as appropriate, and discussions at regularly scheduled Illinois Department of Transportation coordination meetings. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: September 9, 1991.

James C. Partlow,

Project Development and Implementation Engineer, Federal Highway Administration.

[FR Doc. 91-22419 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before October 3, 1991.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comment should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, from 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
5820-X	ICI Americas, Inc., Wilmington, DE [1]	5820
7650-X	ICI Americas, Inc., Wilmington, DE [2]	7650
8214-X	Morton International, Ogden, UT [3]	8214
8582-X	Metro-North Commuter Railroad Company, New York, NY [4]	8582
9164-X	Fabricated Metals, Inc., San Leandro, CA [5]	9164
9498-X	Cominco Fertilizers/A Division of Cominco Ltd., Calgary, Alberta, CN [6]	9498
9623-X	IRECO, Incorporated, Salt Lake City, UT [7]	9623
9761-X	Systron Donner Corporation, Concord, CA [8]	9761
9768-X	Defense Technology and Procurement Agency, Berne, Switzerland [9]	9768
9797-X	LTV Missiles and Electronics Group, Dallas, TX [10]	9797
10238-X	Poly Processing Company, Monroe, LA [11]	10238
10361-X	American Cyanamid Company, Wayne, NJ [12]	10361
10413-X	Harcros Chemicals, Inc., Dallas, TX [13]	10413
10537-X	Quality Manufacturing of Eunice, Inc., Eunice, LA [14]	10537

[1] To authorize two additional nonflammable compressed gases (refrigerants) and to provide for updating the tanks to 280 psig and 57,320 pounds capacity.
[2] To authorize two additional nonflammable compressed gases (refrigerants) and to provide for uprating the tanks to 270 psig and 57,320 pounds capacity.
[3] To modify the exemption to provide for the transportation of an additional airbag.
[4] To authorize a metal container equipped with 8 railway track torpedoes fusees (flagging kits) to be carried by railroad employees in their motor vehicles.
[5] To increase capacity of non-DOT specification steel portable tanks not to exceed 550 gallon capacity for shipment of certain flammable liquids.
[6] To authorize ammonium nitrate, classed as an oxidizer and antimony compounds, inorganic, solid, class B poison as additional commodities for shipment in non-DOT specification bulk bags.
[7] To authorize use of specially designed Ireco repump trucks for shipment of blasting agents and oxidizers along with Class A explosives contained in a storage box.
[8] To authorize cargo aircraft as an additional mode of transportation for shipment of certain compressed gases, n.o.s. in non-DOT specification cylinders.
[9] To authorize shipment of certain Class B explosives which exceed the quantity limitations authorized for carriage by cargo aircraft.
[10] To renew and modify the exemption to increase the number of round trips per panels containing anhydrous, ammonia or helium.
[11] Req reconsideration of exemp. app. to authorize the mfr mark and sell of a non-DOT Spec. polyethylene port. tank for shpmt of certain corrosive, oxidizers and flam. liq. and blasting agents.
[12] To authorize decrease in size of top opening in polyethylene portable tanks from 12"-6" and to identify certain cosmetic change to support legs and covers used for shipment of organic phosphate.
[13] To reissue exemption originally issued on an emergency basis to authorize a limited number of shipments of non-DOT specification metal drums containing sodium chlorate, solid, classed as an oxidizer.
[14] To modify the exemption to include cargo vessel as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
6418-P	Southern States Cooperative, Inc., Richmond, VA	6418
6418-P	W.S. Clark & Sons, Inc., Tarboro, NC	6418
6418-P	Harvey Fertilizer & Gas Co., Kinston, NC	6418
6418-P	U.A.P. Georgia Ag. Chemical, Bishopville, SC	6418
6626-P	Findley Welding Supply, Inc., Youngstown, OH	6626
6626-P	Industrial Gas & Supply Co., Bristol, TN	6626
6691-P	Quality Welding Supply Corp., Elmira, NY	6691
6691-P	Virginia Welding Supply, Inc., Charleston, WV	6691
6691-P	CS Gases Inc., Buffalo, NY	6691
7951-P	Rod's food Products, City of Industry, CA	7951
8273-P	Mazda (North America), Inc., Flat Rock, MI	8273
8273-P	Mazda Motor of America, Inc., Irvine, CA	8273
8451-P	OEA, Inc., Denver, CO	8451
8453-P	Tennessee Nitrate Technology, Inc., Dunlap, Tn	8453
8556-P	Iwatani International Corporation of America, Fort Lee, NJ	8556
8582-P	Springfield Terminal Railway, North Billerica, MA	8582
8966-P	Hasa Inc., Santa Clarita, CA	8966
9198-P	Department of Natural Resources, Anchorage, AK	9198

Application No.	Applicant	Parties to exemption
9275-P	Chanel, Inc., Piscataway, NJ	9275
9381-P	Pazco Metals, Santa Fe Springs, CA	9381
9549-P	Shaped Charge Specialist, Inc., Mansfield, TX	9549
9723-P	Franklin Environmental Services, Inc., Wrentham, MA	9723
9723-P	Mineral Springs Corporation, Port Washington, WI	9723
10323-P	Union Carbide Industrial Gases Inc., Danbury, CT	10323
10449-P	SRI International, Menlo Park, CA	10449
10504-P	Union Carbide industrial Gases Inc., Danbury, CT	10504
10669-P	Promet, Inc., Houston, TX	10669
10670-P	E. I. du Pont de Nemours Company, Boston, MA	10670
10670-P	Mallinckrodt Medical, Inc., Maryland Heights, MO	10670
10670-P	Eli Lilly Company, Indianapolis, In	10670
10670-P	Amersham Corporation /Mediphysics, Arlington Heights, IL	10670
10670-P	Bristol Myers Squibb Company, Cranbury, NJ	10670

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 12, 1991.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 91-22409 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-60-M

Aviation, Marine and Land Radionavigation Users Conferences

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Amendment to notice of conferences.

SUMMARY: Due to a conflict with the Radio Technical Commission for Aeronautics (RTCA) Annual Assembly Meeting on November 18–20, the previously announced Aviation, Marine and Land Radionavigation Users Conferences will be extended an additional day to allow aviation users attending the RTCA meeting the opportunity to also attend the User Conference on November 21.

DATE, TIME AND PLACE: November 19, 20, and 21, 1991, beginning at 9 a.m. each day at the Embassy Suites Hotel, 1900 Diagonal St. (across from the King St. Metro Station), Alexandria, Virginia. The November 19 session will focus primarily on marine and land requirements. The November 20 and 21 sessions will focus primarily on aviation requirements. December 5, 1991, beginning at 9 a.m. at the Sheraton Hotel and Towers, 1400 Sixth Ave., Seattle, Washington. The December 5 conference will focus on aviation, marine, and land requirements.

Issued in Washington, DC on September 11, 1991.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 91-22374 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 18, 1991.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10652-N	Flura Corporation, Newport, TN	49 CFR 173.328	To authorize the transportation of poison A gas in DOT-Specification 4B cylinders packaged inside six-inch 40 pipe installed with caps overpacked in 30-gallon DOT 17H drums with styrofoam padding. (mode 1)
10661-N	Southern Petroleum Laboratories, Inc., Carthage, TX.	49 CFR 178.37	To authorize shipment of residual amounts of flammable liquids and gases contained in test separator vessels, mounted to a trailer, used in measuring oil well productions. (mode 1)
10664-N	EFIC Corporation, San Jose, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3	To manufacture, mark and sell fully overwrapped high pressure cylinders consisting of aluminum liners overwrapped in carbon and glass fibers for transportation of nonliquified compressed gases. (modes 1, 2, 3, 4, 5)

NEW EXEMPTIONS—Continued

Application No	Applicant	Regulation(s) affected	Nature of exemption thereof
10665-N	General American Transportation Corporation, Chicago, IL.	49 CFR 173.31	To authorize DOT-Specification 111A100W-1 tank cars used in general service which were converted to 111A100W-2 cars for use in corrosive service to enjoy to periodic retest cycles per 49 CFR section 173 31 table 1 footnote. (mode 2)
10666-N	Guilberson Division, Dresser Industries, Inc. Dallas, TX.	49 CFR 172.101, 173.62	To authorize the transportation of charged oil well jet perforating guns with initiation devices attached. (modes 1, 3)
10667-N	Justrite Manufacturing Company, Mattoon, IL.	49 CFR 173.119	To manufacture, mark and sell five-gallon non-DOT Specification steel drums, comparable to a specification DOT-51 for use in transporting flammable liquids. (mode 1)
10668-N	Cascade Helicopters, Inc., Cashmere, WA	49 CFR 173.119, 178.341-4, 178.341-5	To authorize shipment of gasoline, classed as a flammable liquid in non-DOT specification cargo tanks, comparable to DOT specification 306, not to exceed 450 gallons capacity. (mode 1)
10669-N	Transmark Sales, Riverside, CA	49 CFR 172, 173, 174, 177	To authorize the transportation of galvanized steel bars and rods in various lengths contaminated with low concentrations of radioactive material. (modes 1, 2)
10670-N	DuPont Merck Pharmaceutical Company, Billerica, MA.	49 CFR 172.402(c)	To exempt from labelling Type A or Type B packaging containing radioactive material that also meet the definition of one or more additional hazards. (modes 1, 4, 5)
10672-N	Burlington Packaging, Inc. Brooklyn, NY	49 CFR 172.400, 172.402(a)(2)(3), 172.504(a)Label, 174.25(a), 175.3.	To authorize the manufacture, marking and sell of non-DOT specification packaging for use in transporting limited quantities of various classes of hazardous materials. (modes 1, 2, 4)
10673-N	Southern Air Transport, Miami, FL	49 CFR 172.101	To authorize the transportation of dimethylhydrazine, classed as flammable liquid and nitrogen tetroxide classed as poison A in 55 gallon DOT Specification containers aboard cargo only aircraft. (mode 4)
10674-N	ConAir Corporation, Carson City, NV	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107.	To authorize the transportation of Class A, B and C explosives, which are forbidden for air shipment or are in quantities greater then those authori[illegible] for shipment by cargo aircraft. (mode 4)
10675-N	Schering Berlin Polymers Inc., Dublin, OH	49 CFR 173.242, 173.244	To authorize the transportation of pyrophoric liquids, n.o.s. and flammable liquids, n.o.s. in non-DOT specification portable tanks. (modes 1, 2)
10676-N	E.I. DuPont de Nemours and Company, Wilmington, DE.	49 CFR 173.315	To authorize the transportation of compressed gas, n.o.s. in 250 psig design MC330/331 cargo tank. (mode 1)
10677-N	Primus of Sweden, S-171 26 Solna, Sweden.	49 CFR 178.33	To authorize the transportation of butane cartridges, not to exceed 3.937 inches inside diameter, made to DOT-Specification 2P. (modes 1, 2, 3, 4)
10678-N	National Aeronautics & Space Administration, (NASA) Washington, DC.	49 CFR 173.304(d), 173.34(a)(1)	To authorize the transportation of 100% isobutane, classed as flammable gas, in non-DOT specification cylinders overpacked in fiberglass containers with foam backing. (mode 1)
10679-N	Assmann Corporation of America, Garrett, IN.	49 CFR 173 Subparts (D), (E), (F)	To authorize the manufacture, marking and sell of non-DOT specification rotationally molded, low density polyethylene portable tank enclosed with a protective steel cage for shipment of various classes of hazardous materials. (modes 1, 2, 3)
10680-N	A. B. Chance Company, Centralia, MO	49 CFR 49 CFR 173.302	To authorize shipment of sulfur hexafluoride, nonflammable gas, in non-DOT specification cylinders. (modes 1, 3)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 12, 1991.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 91-22410 Filed 9-17-91; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 9, 1991.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0074.

Form Number: IRS Form 1040.

Type of Review: Resubmission.

Title: U.S. Individual Income Tax Return.

Description: This form is used by individuals to report their income tax and compute their correct tax liability. The data is used to verify that the items reported on the form are correct and are also for general statistical use.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 71,488,116.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping, 3 hours, 8 minutes.

Learning about the law or the form, 2 hours, 30 minutes.

Preparing the form, 3 hours, 11 minutes.

Copying, assembling, and sending the form to IRS, 35 minutes.

Frequency of Response: Annually

Estimated Total Reporting/ Recordkeeping Burden: 1,149,789,393 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–22420 Filed 9–17–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 12, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Form 1040EZ–1 1991 Pilot Test Focus Groups.

Description: A 1991 filing season test of the Form 1040EZ–1 was conducted among 3,928 Texas taxpayers. Focus groups will be conducted among Dallas, Houston and San Antonio test participants to explore taxpayer reactions to the new form in depth.

Respondents: Individuals or households.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: Other (one-time focus groups).

Estimated Total Reporting Burden: 230 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–22376 Filed 9–17–91; 8:45 am]

BILLING CODE 4830–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Generalized System of Preferences (GSP); Notice of Location of 1991 GSP Annual Review Public Hearings; To Amend the Submission Deadline for Petitions to be Filed in the Special GSP Review for Central and East European Countries

SUMMARY: This notice: (1) Announces the location of the public hearings to be held October 1–4, 1991, concerning the 1991 GSP Annual Review; (2) announces the change of deadline for the Governments of Czechoslovakia, Hungary, Poland, and Yugoslavia to submit petitions for the Special GSP Review for Central and East European Countries.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. The telephone number is (202) 395–6971. Public versions of all documents are available for review by appointment with the USTR public Reading Room. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

SUPPLEMENTARY INFORMATION:

I. Location of 1991 GSP Annual Review Public Hearings

As announced in a previous notice of August 26, 1991 (56 FR 42080), public hearings are scheduled to be held October 1–4, 1991, beginning at 10 a.m. These hearings will be held in room 217 (Courtroom C) of the United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

II. Change of Deadline to Submit Petitions for the Special GSP Review for Central and East European Countries

As indicated in a previous notice of August 8, 1991 (56 FR 37758), the GSP Subcommittee of the Trade Policy Staff Committee invited requests from the Governments of Czechoslovakia, Hungary, Poland, and Yugoslavia to modify the list of articles eligible for duty-free treatment under the GSP. This notice revises the deadline for the submission of petitions by the participating governments. Petitions are now due by 5 p.m. October 18, 1991, at the Office of the U.S. Trade Representative, room 517, 600 17th Street, NW., Washington, DC 20506. All petitions must conform with regulations codified in 15 CFR part 2007, and with the other requirements specified in the above-cited **Federal Register** notice.

Questions concerning the Public Hearings for the 1991 GSP Annual Review, the Special Central and East European Review, or any other aspect of the GSP program may be directed to the USTR GSP Information Center at (202) 395–6971.

David Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 91–22498 Filed 9–17–91; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service

(723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 18, 1991.

Dated: August 21, 1991.

By direction of the Secretary:

Kenneth H. Hoffmann,

Director, IRM Policy and Standards Service.

Extension

1. Financial Status Report, VA Form 4-5655.
2. The form provides information to determine the financial status of a debtor requesting a repayment plan, waiver of a debt, or making a compromise offer.
3. Individuals or households.
4. 250,000 hours.
5. 1 hour.
6. On occasion.
7. 250,000 respondents.

[FR Doc. 91-22448 Filed 9-17-91; 8:45 am]

BILLING CODE 8320-01-M

Advisory Commission on the Future Structure of Veterans Health Care; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that the final meeting of the Commission on the Future Structure of Veterans Health Care will be held on Thursday and Friday, October 10 and 11, 1991. The session on October 10 will be held between 10 a.m. and 2 p.m. and on October 11 will be held between 8:30 a.m. and 12 Noon. Both public sessions will be held at 650 Massachusetts Avenue, NW., Washington, DC, 2nd floor conference room. The Commission's purpose is to review the missions and programs of the VA's health care facilities to determine whether changes in services, programs, or missions at medical facilities are needed, with a focus on providing care to eligible veterans in 2010. The agenda for the meeting will include presentations to the Commission by various individuals as well as working sessions for the Commissioners to discuss, study, and analyze specific critical VA health care issues. The meeting will be open to the public up to the seating capacity of the room and interested persons may file written statements with the Commission.

Persons wanting to file written statements or wanting additional information regarding the meeting should contact Mr. Robert Moran, Commission on the Future Structure of Veterans Health Care, Techworld Plaza, 800 K Street, NW., P.O. Box 88, Washington, DC 20001, telephone (202) 633-7079.

Dated: September 9, 1991.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 91-22447 Filed 9-17-91; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register
Vol. 56, No. 181
Wednesday, September 18, 1991

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 COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 910800-1200]
RIN 0648-AD97

Pelagic Fisheries of the Western Pacific Region

Correction

In proposed rule document 91-20108 beginning on page 41643 in the issue of Thursday, August 22, 1991, make the following corrections:

1. On page 41643, in the second column, under **DATES**, in the second line, "October 7, 1991" should read "October 3, 1991".

2. On page 41645, in the first column, in the last paragraph, in the first line, "Section 3034" should read "Section 304".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Chapter 1

[TD 91-77]

Technical Amendments to the Customs Regulations

Correction

In rule document 91-21579 beginning on page 46114 in the issue of Tuesday, September 10, 1991, make the following correction:

Chapter 1 [Corrected]

On page 46114, in the third column, in the first column of the table, the first entry "§ 4.80(b)" should read "§ 4.80b(b)".

BILLING CODE 1505-01-D

federal register

Wednesday
September 18, 1991

Part II

Department of Education

Direct Grant Programs and Fellowship Programs; Notice Inviting Applications for New Awards for Fiscal Year 1992

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1992.

SUMMARY: The Secretary invites applications for new awards for fiscal year (FY) 1992 under many of the Department's direct grant and fellowship programs and announces deadline dates for the transmittal of applications under these programs. This combined application notice contains fiscal and programmatic information for potential applicants under the Department's programs announced in this issue of the **Federal Register**. This notice also lists all FY 1992 programs previously announced in the **Federal Register**, as well as FY 1992 programs to be announced at a later date.

DATES: The deadline dates for transmitting applications under these programs (except programs to be announced at a later date) are listed in Chart 1. For programs announced in this issue of the **Federal Register**, these deadline dates are repeated in Charts 2 through 7.

For programs announced in this issue of the **Federal Register** that are subject to Executive Order (EO) 12372 (Intergovernmental Review of Federal Programs), the deadline dates for the transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties are listed in Charts 2 through 7.

For programs announced in this issue of the **Federal Register**, the charts also list the dates on which applications will be available.

ADDRESSES: The addresses for obtaining applications for, or further information about, individual programs announced in this issue of the **Federal Register** are in the respective announcements for those programs following the appropriate chart in Part II of this notice.

Deaf and hearing impaired individuals may call the TDD number, if any, listed in the individual program announcements. If a TDD number is not listed for a given program, deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

The address for transmitting recommendations and comments under intergovernmental review, together with the addresses of individual SPOCs, is in the appendix to this notice.

SUPPLEMENTARY INFORMATION: The Secretary believes that placing as many program announcements as possible in a single notice will assist potential applicants in planning projects and activities. Further, this notice offers a complete picture of virtually all the Department's direct grant and fellowship competitions available for FY 1992. If additional competitions are carried out in FY 1992 because of new legislation or other events not known at this time, the Secretary will announce those competitions in future issues of the **Federal Register**.

Elsewhere in this issue of the **Federal Register**, the Secretary has published a notice inviting individuals to serve as field readers to review and evaluate discretionary grant applications for FY 1992 under many of the programs included or referenced in this combined application notice.

Organization of Notice

This notice is organized in two parts.

Part I lists, by principal program offices of the Department, in Chart 1 all direct grant program announcements and certain fellowship program announcements for awards in FY 1992. The listing for each principal office includes three categories of program announcements: those already published, those published in this issue of the **Federal Register**, and those to be published at a later date. The programs are listed in order of their Catalog of Federal Domestic Assistance (CFDA) number irrespective of category. The listing for each office contains the following information:

- The CFDA number of each program.
- The name of that program.
- A reference to the program announcement.
- The deadline date for transmitting applications.

Program Announcements

If the announcement for a particular program has already been published, the date of publication is listed, together with a reference to the issue of the **Federal Register** in which the announcement appeared. If the announcement is included in this combined application notice, it is designated by the words "In this issue." The chart also identifies any program announcements published elsewhere in this issue of the **Federal Register**. If the announcement is to be published at a later date, it is designated by the words "To be announced (TBA)."

Application Deadline Dates

All deadline dates announced in this notice or previously announced are listed in Chart 1. Each deadline date announced in this notice is also repeated in the appropriate program chart (Charts 2 through 7). Any deadline date to be announced later is designated by the initials "TBA."

Part II contains fiscal and programmatic information for all programs announced in this notice.

Each principal program office is assigned a separate chart as follows:

Chart 2—Office of Bilingual Education and Minority Languages Affairs.

Chart 3—Office of Educational Research and Improvement.

Chart 4—Office of Elementary and Secondary Education.

Chart 5—Office of Postsecondary Education.

Chart 6—Office of Special Education and Rehabilitative Services.

Chart 7—Office of Vocational and Adult Education.

Each of the charts contains the following information:

- The CFDA number and the name of each affected program.
- The date of availability of applications.
- The deadline date for transmitting applications.
- For any program subject to the requirements of EO 12372 and the regulations in 34 CFR part 79, the deadline date for transmitting comments under intergovernmental review.
- The estimated range of awards.
- The estimated average size of awards.
- The estimated number awards.

Following the chart for each principal program office are additional details for each affected program, including—

- A brief statement of the purpose of the program;
- A list of eligible applicants;
- A list of regulations applicable to the program;
- Information regarding priorities, if any;
- Supplemental information, if necessary, regarding selection criteria or other matters;
- The project period in months;
- The name, address, and telephone number of the person or office at the Department to contact for applications or information; and
- A citation of the statutory or other legal authority for the program.

These announcements also specify if a program is affected by a notice of priorities, either previously published or published elsewhere in this issue of the **Federal Register**, and inform readers where that notice may be found.

Programs To Be Announced at a Future Date

It is the Secretary's goal to announce as many programs as possible by the date of publication of the combined application notice each year. However, for FY 1992 a number of programs will be governed by new regulations or funding priorities. Some of these programs may also be affected by legislation currently pending in the Congress and may require regulations if that legislation is enacted.

Since it is the Secretary's general policy not to announce programs on the basis of proposed regulations or funding priorities, the combined application notice references some of these programs as "To be announced." Program announcements for these programs will be published when final regulations or priorities are completed. Programs expected to be affected by new regulations or funding priorities are marked in Chart 1 with an asterisk (*) following the abbreviation "TBA." For further information regarding many of these programs, readers are referred to the following notices of proposed rulemaking and notices of proposed funding priorities that have been published in the **Federal Register:**

Services for Children with Deaf-Blindness Program—Notice of Proposed Rulemaking	56 FR 23344 (5/21/91)
Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training—Notice of Proposed Rulemaking.	56 FR 27474 (6/14/91)
Bilingual Education: Training Development and Improvement Program—Notice of Proposed Priority	56 FR 33025 (7/18/91)
Program for Children and Youth with Serious Emotional Disturbance—Notice of Proposed Rulemaking	56 FR 27481 (6/14/91)
Upward Bound Program—Notice of Proposed Priorities	56 FR (8/7/91)
Projects with Industry—Notice of Proposed Priorities for Fiscal Year 1992	56 FR 41044 (8/16/91)
Vocational Rehabilitation Service Projects for American Indians with—Handicaps—Notice of Proposed Priorities for Fiscal Year 1992.	56 FR 41180 (8/19/91)

Available Funds

The Congress has not yet enacted a fiscal year 1992 appropriation for the Department of Education. However, the Department is publishing this notice in order to give potential applicants adequate time to prepare applications. Estimates of the amount of funds available for these programs are based in part on the President's 1992 budget request and in part on the level of funding available for fiscal year 1991. THE DEPARTMENT OF EDUCATION IS NOT BOUND BY ANY OF THE ESTIMATES IN THIS NOTICE.

Applicability of Section 5301 of the Anti-Drug Abuse Act of 1988

A number of programs covered by this combined application notice and listed in Chart 1 provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690; 21 U.S.C. 853g) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction.

This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee institution.

Any persons determined to be ineligible for Federal benefits under the provisions of section 5301 are listed in the General Services Administration's "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs."

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs announced in this notice make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990. The Act provides that a debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive a Federal grant or loan until the judgment is paid in full or otherwise satisfied.

Intergovernmental Review of Federal Programs

Certain programs in this notice are subject to the requirements of EO 12372 and the regulations in 34 CFR part 79. These programs are identified in Charts 2 through 7 with a date in the column headed "Deadline for Intergovernmental Review." For further information, an applicant under a program subject to the Executive order—and other parties interested in that program—are directed to the appendix to this notice.

PART I

CHART 1—LIST OF PROGRAM ANNOUNCEMENTS

CFDA No.	Name of program	Program announcement	Application deadline date
	Office of Bilingual Education and Minority Languages Affairs		
84.003A	Transitional Bilingual Education Program	In this issue	1/10/92
84.003E	Special Alternative Instructional Program	In this issue	1/10/92
84.003G	Academic Excellence Program	In this issue	1/21/92
84.003J	Family English Literacy Program	In this issue	11/13/91
84.003L	Special Populations Program	In this issue	11/13/91
84.003Q	State Educational Agency Program	In this issue	11/29/91
84.003R	Educational Personnel Training Program	In this issue	1/27/92
84.003S	Training Development and Improvement Program	To be announced (TBA) *	TBA

PART I—Continued

CFDA No.	Name of program	Program announcement	Application deadline date
84.003T	Fellowship Program	In this issue	1/17/92
84.003V	Short-Term Training Program	In this issue	11/13/91
	Office of Educational Research and Improvement		
	Library Programs		
84.036B	Library Career Training Program—Fellowship Awards	6/12/91 (56 FR 27157)	10/10/91
84.091A	Strengthening Research Library Resources	6/12/91 (56 FR 27157)	[1] 10/28/91 [2] 12/2/91
84.163A	Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants.	6/12/91 (56 FR 27156)	10/1/91
84.163B	Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants.	6/12/91 (56 FR 27158)	4/3/92
84.167A	Library Literacy Program	6/12/91 (56 FR 27157)	11/8/91
84.197A	College Library Technology and Cooperation Grants Program	6/12/91 (56 FR 27157)	1/17/92
84.239A	Foreign Language Materials Acquisition Program	6/12/91 (56 FR 27157)	3/9/92
	Fund for the Improvement and Reform of Schools and Teaching (FIRST)		
84.168	National Program for Mathematics and Science Education	To be announced (TBA)	TBA
84.211A	FIRST—Schools and Teachers Program	To be announced (TBA)	TBA
84.211B	FIRST—Schools and Teachers Program: School-Level Projects	To be announced (TBA)	TBA
84.212A	FIRST—Family-School Partnership Program	To be announced (TBA)	TBA
84.215	Secretary's Fund for Innovation in Education (FIE):		
84.215A	FIE—Innovation in Education Program	To be announced (TBA)	TBA
84.215B	FIE—Comprehensive School Health Education Program	To be annouced (TBA)	TBA
	Office of Research		
84.117A	National Reading Research Center	7/8/91 (56 FR 31014)	10/18/91
84.177E	Educational Research Grant Program—Field-Initiated Studies	In this issue	1/10/92
84.117J	OERI Fellows Program	To be announced (TBA)	TBA
	Programs for the Improvement of Practice		
84.073A	National Diffusion Network Program—New Developer Demonstrator Projects.	In this issue	4/10/92
84.073C	National Diffusion Network Program—New State Facilitator Projects.	To be announced (TBA)*	TBA
84.073E	National Diffusion Network Program—New Dissemination Process Projects.	In this issue	5/29/92
84.203A	Star Schools	To be announced (TBA)	TBA
84.206	Javits Gifted and Talented Students Education Grant Program	To be announced (TBA)*	TBA
84.288A-2	Educational Partnerships Program	To be announced (TBA)*	TBA
	National Center for Education Statistics		
84.999B	National Assessment of Educational Progress Data Reporting Program.	In this issue	11/15/91
	Office of Elementary and Secondary Education		
84.004C	Desegregation of Public Education—State Educational Agency Desegration Program.	7/25/91(56 FR 34056) 8/12/91 (56 FR 38132)	10/1/91
84.014B	Follow Through Program—Local Projects	In this issue	4/27/92
84.014C	Follow Through Program—Sponsors	In this issue	4/27/92
84.061A	Educational Services for Indian Children	In this issue	1/8/92
84.061C	Planning, Pilot, and Demonstration Projects for Indian Children (Planning Projects).	To be announced (TBA)*	TBA
84.061D	Planning, Pilot, and Demonstration Projects for Indian Children (Pilot Projects).	To be announced (TBA)*	TBA
84.061E	Planning, Pilot, and Demonstration Projects for Indian Children (Demonstration Projects).	To be announced (TBA)*	TBA
84.061F	Indian Education—Educational Personnel Development	To be announced (TBA)*	TBA
84.062A	Educational Services for Indian Adults	In this issue	1/8/92
84.072A	Indian-Controlled Schools—Enrichment Projects	In this issue	1/8/92
84.083A	Women's Educational Equity Act	In this issue	3/11/92
84.087A	Indian Fellowship Program	In this issue	2/7/92
84.123A	Law-Related Education Program	In this issue	3/2/92
84.184A	Drug-Free Schools and Communities Program—Demonstration Grants to Institutions of Higher Education.	In this issue	1/21/92
84.184B	Drug-Free Schools and Communities Program—Federal Activities Grants Programs.	In this issue	12/20/91
84.190A	Chnsta McAuliffe Fellowship Program	In this issue	12/13/91
84.207A	Drug-Free Schools and Communities—School Personnel Training Grants.	In this issue	12/4/91

PART I—Continued

CFDA No.	Name of program	Program announcement	Application deadline date
84.214A	Migrant Education Even Start Program	In this issue	4/20/92
84.233A	Drug-Free Schools and Communities—Emergency Grants	In this issue	2/18/92
84.241A	Drug-Free Schools and Communities—Counselor Training Grants Program.	In this issue	1/21/92
	Office of Postsecondary Education		
84.016A	Undergraduate International Studies and Foreign Language	8/8/91 (56 FR 37691)	11/4/91
84.017A	International Research and Studies Program	8/19/91 (56 FR 41124)	11/1/91
84.019A	Fulbright-Hays Faculty Research Abroad	8/26/91 (56 FR 42035)	11/1/91
84.021A	Fulbright-Hays Group Projects Abroad	8/8/91 (56 FR 37691)	10/21/91
84.022A	Fulbright-Hays Doctoral Dissertation Research Abroad	8/26/91 (56 FR 42035)	11/1/91
84.031A	Strengthening Institutions Program	To be announced (TBA)	TBA
84.031G	Endowment Challenge Grant Program	In this issue	6/11/92
84.031H	Strengthening Institutions Program and Endowment Challenge Grant Program—Designation as an Eligible Institution (under 84.031A and 84.031G).	8/1/91 (56 FR 36780)	009/20/91
84.047A	Upward Bound Program	In this issue	12/6/91
84.047A-3	Upward Bound Program—Math/Science Centers	To be announced (TBA)*	TBA
84.055A	Cooperative Education Program—Administration Projects	In this issue	12/13/91
84.055C	Cooperative Education Program—Research Projects	In this issue	12/13/91
84.055D	Cooperative Education Program—Training and Resource Center Projects.	In this issue	12/13/91
84.094B	Patricia Roberts Harris Fellowships Program—Graduate and Professional Study Fellowships.	In this issue	11/15/91
84.094C	Patricia Roberts Harris Fellowships Program—Public Service Education Fellowships.	8/19/91 (56 FR 41125)	10/11/91
84.097A	Law School Clinical Experience Program	In this issue	1/21/92
84.120	Minority Science Improvement Program	To be announced (TBA)	TBA
84.136A	Assistance for Training in the Legal Profession	To be announced (TBA)	TBA
84.153A	Business and International Education	8/8/91 (56 FR 37691)	11/8/91
84.170A	Jacob K. Javits Fellows Program	In this issue	2/3/92
84.200A	Graduate Assistance in Areas of National Need	9/13/91 (56 FR)	10/28/91
84.202A	Minority Participation in Graduate Education	9/13/91 (56 FR)	10/28/91
84.217A	Ronald E. McNair Post-Baccalaureate Achievement Program	To be announced (TBA)*	TBA
84.219A	Student Literacy Corps Program	8/16/91 (56 FR 40880)	11/4/91
84.220A	Centers for International Business Education	To be announced (TBA)	TBA
	Fund for the Improvement of Postsecondary Education (FIPSE)		
84.116A	Comprehensive Program (Preapplications)	8/26/91 (56 FR 42036)	10/16/91
84.116B	Comprehensive Program (Applications).[3]	8/26/91 (56 FR 42036)	2/28/92
84.116F	Fund for the Improvement of Postsecondary Education—Innovative Projects for Student Community Service.	In this issue	12/18/91
84.116G	Fund for the Improvement of Postsecondary Education—Practitioner Scholars (Invitational Priority: Lecture Series).	In this issue	12/10/91
84.116H	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: College-School Partnerships to Improve Learning of Essential Academic Subjects, Kindergarten through College).	To be announced (TBA)	TBA
84.116J	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Higher Education Cooperation and Exchange between the United States and the European Community).	To be announced (TBA)	TBA
84.116K	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Projects in Science and the Humanities).	In this issue	4/1/92
84.183A	Drug Prevention Programs in Higher Education—Institution-Wide Program.	In this issue	1/21/92
84.183B	Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program.	In this issue	4/25/92
84.183D	Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention).	In this issue	2/24/92
84.183E	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects.	In this issue	1/13/92
84.183F	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects.	In this issue	1/13/92
	Office of Special Education and Rehabilitative Services		
	Office of Special Education Programs		
84.023A	Small Grants Program	To be announced (TBA)*	TBA
84.023B	Student-Initiated Research Projects	8/30/91 (56 FR 43005)	1/10/92
84.023C	Field-Initiated Research Projects	8/30/91 (56 FR 43005)	10/25/91

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CFDA No.	Name of program	Program announcement	Application deadline date
84.023J	Research on Self Determination in Individuals with Disabilities	To be announced (TBA)*	TBA
84.023M	Ombudsmen Projects for Children and Youth with Disabilities	To be announced (TBA)*	TBA
84.023N	Initial Career Awards	To be announced (TBA)*	TBA
84.023R	Including Children with Disabilities as a Part of Systemic Efforts to Restructure Schools.	To be announced (TBA)*	TBA
84.024B	Early Childhood Model Demonstration Projects	To be announced (TBA)*	TBA
84.024D	Outreach Projects	To be announced (TBA)*	TBA
84.024H	Experimental Projects	To be announced (TBA)*	TBA
84.024P	Inservice Training of Early Intervention Service Providers through Training of Faculty from Institutions of Higher Education.	To be announced (TBA)*	TBA
84.024T	Early Childhood Research Institute—Service Implementation and Capacity for Providing Early Intervention Services	To be announced (TBA)*	TBA
84.025A	State and Multi-State Services Projects for Children with Deaf-Blindness and Optional Pilot Projects for Children with Deaf-Blindness.	To be announced (TBA)*	TBA
84.025E	Center/Technical Assistance	To be announced (TBA)*	TBA
84.025R	Research in Social Relationships for Children and Youth with Deaf-Blindness.	To be announced (TBA)*	TBA
84.026B	Descriptive Video	To be announced (TBA)*	TBA
84.026R	Special Research, Development, and Evaluation Projects	To be announced (TBA)*	TBA
84.026S	Closed-Captioned Daytime Programming	To be announced (TBA)*	TBA
84.026T	Integrated Theatre	To be announced (TBA)	TBA
84.029A	Preparation of Personnel—Low Incidence Populations	To be announced (TBA)*	TBA
84.029B	Preparation of Personnel for Careers in Special Education	To be announced (TBA)*	TBA
84.029D	Preparation of Leadership Personnel	To be announced (TBA)*	TBA
84.029E	Preparation of Minority Personnel	To be announced (TBA)*	TBA
84.029F	Preparation of Related Services Personnel	To be announced (TBA)*	TBA
84.029K	Special Projects	To be announced (TBA)*	TBA
84.029M	Parent Training and Information Centers	In this issue	11/18/91
84.029Q	Training Personnel to Serve Infants, Toddlers, and Preschoolers	To be announced (TBA)*	TBA
84.029R	Technical Assistance to Parent Groups	To be announced (TBA)*	TBA
84.078C	Career Placement Opportunities for Students with Disabilities in Postsecondary Programs.	To be announced (TBA)*	TBA
84.086A	Social Relationships Research Institute for Children and Youth with Severe Disabilities.	To be announced (TBA)*	TBA
84.086D	Developing Innovations for Educating Children with Severe Disabilities in General Education Classrooms.	To be announced (TBA)*	TBA
84.086J	Statewide Systems Change	To be announced (TBA)*	TBA
84.086R	Model Inservice Training Projects	To be announced (TBA)*	TBA
84.086U	Outreach Serving Students with Severe Disabilities in Integrated Environments.	To be announced (TBA)*	TBA
84.158D	Model Demonstration Projects to Identify, Recruit, Train, and Place Youth with Disabilities Who Have Dropped Out of School.	To be announced (TBA)*	TBA
84.158G	Institute to Evaluate and Provide Technical Assistance to States Implementing Cooperative Projects to Improve Transition Services.	To be announced (TBA)*	TBA
84.158K	Model Demonstration Projects to Identify and Teach Skills Necessary for Self-Determination.	To be announced (TBA)*	TBA
84.158P	Research Projects on the Transition of Special Populations to Integrated Postsecondary Environments.	To be announced (TBA)*	TBA
84.159A	State Agency-Federal Evaluation Studies Projects	To be announced (TBA)*	TBA
84.159F	State Agency-Federal Evaluation Studies Projects—Feasibility Studies of Impact and Effectiveness.	To be announced (TBA)*	TBA
84.159G	The Center for Special Education Finance	To be announced (TBA)*	TBA
84.180D	Innovative Applications of Technology to Enhance Experiences in the Arts for Children with Disabilities.	To be announced (TBA)*	TBA
84.180E	Demonstrating and Evaluating the Benefits of Educational Innovations Using Technology.	To be announced (TBA)*	TBA
84.180F	Studying How the Design of Software and Other Computer-Assisted Media and Materials Can Enhance the Instruction of Preschool Children with Disabilities.	To be announced (TBA)*	TBA
84.237C	School Preparedness for Developing Well Adjusted Students	To be announced (TBA)*	TBA
	National Institute on Disability and Rehabilitation Research		
84.133A	Research and Demonstration Projects	To be announced (TBA)*	TBA
84.133B	Rehabilitation Research and Training Centers	To be announced (TBA)*	TBA
84.133C	Innovation Grants	7/31/91 (56 FR 36662)	3/16/92
84.133D	Knowledge Dissemination and Utilization	To be announced (TBA)*	TBA
84.133E	Rehabilitation Engineering Centers	To be announced (TBA)*	TBA
84.133F	Rehabilitation Research Fellowships	7/31/91 (56 FR 36662)	12/15/91
84.133G	Field-Initiated Research	7/31/91 (56 FR 36662)	10/15/91
84.133P	Research Training Grants	5/14/91 (56 FR 22282)	9/30/91
84.224A	State Grants for Technology-Related Assistance for Individuals with Disabilities.	8/12/96 (56 FR 38300)	10/15/91
84.231A	Innovation and Demonstration Technology Grants	To be announced (TBA)	TBA

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CFDA No.	Name of program	Program announcement	Application deadline date
84.236A	Technology-Related Assistance for Individuals with Disabilities: Training and Public Awareness Projects.	To be announced (TBA)	TDA
	Rehabilitation Services Administration		
84.128G	Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Handicaps.	To be announced (TBA)*	TBA
84.128K	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Service Handicaps—Community-Based Projects in Rural Areas.	To be announced (TBA)*	TBA
84.128L	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects for Individuals with Long-Term Mental Illnesses.	To be announced (TBA)*	TBA
84.128M	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects for Unserved and Underserved Populations.	To be announced (TBA)*	TBA
84.129	Rehabilitation Long-Term Training	To be announced (TBA)*	TBA
84.129T	Experimental and Innovative Training	In this issue	11/18/91
84.129V	State Vocational Rehabilitation Unit In-Service Training	To be announced (TBA)*	TBA
84.132	Centers for Independent Living	To be announced (TBA)*	TBA
84.234H	Projects with Industry—Projects to Increase Placements in Occupations that Reflect Current and Future Employment Trends and Labor Market Needs.	To be announced (TBA)*	TBA
84.234J	Projects with Industry—Projects to Increase the Wage-Earning Potential of Individuals with Handicaps.	To be announced (TBA)*	TBA
84.235A	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Specific Learning Disabilities Residing in Remote or Rural Areas.	To be announced (TBA)*	TBA
84.235G	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Traumatic Brain Injuries.	To be announced (TBA)*	TBA
84.235H	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Chronic Progressive Diseases.	To be announced (TBA)*	TBA
84.246	Rehabilitation Short-Term Training	To be announced (TBA)*	TBA
84.250A	Vocational Rehabilitation Service Projects for American Indians with Handicaps—Disabilities of High Prevalence.	To be announced (TBA)*	TBA
84.250B	Vocational Rehabilitation Service Projects for American Indians with Handicaps—Individuals with Specific Learning Disabilities.	To be announced (TBA)*	TBA
	Office of Vocational and Adult Education		
84.099	Bilingual Vocational Instructor Training Program	5/10/91 (56 FR 21784)	7/12/91
84.101A	Indian Vocational Education Program	5/30/91 (56 FR 24634)	7/15/91
84.101C	Native Hawaiian Vocational Education Program	In this issue	4/15/92
84.192A	Adult Education for the Homeless Program	4/2/91 (56 FR 13522)	6/14/91
84.193A	Demonstration Centers for the Training of Dislocated Workers Program.	6/7/91 (56 FR 26566)	8/2/91
84.198A	National Workplace Literacy Program	6/4/91 (56 FR 25578)	7/19/91
84.199D	Cooperative Demonstration Program (Corrections Education)	To be announced (TBA)*	TBA
84.199E	Cooperative Demonstration Program (School-to-Work)	To be announced (TBA)*	TBA
84.223A	National English Literacy Demonstration Program for Adults of Limited English Proficiency.	To be announced (TBA)*	TBA
84.244A	Business and Education Standards Program	To be announced (TBA)*	TBA
84.247A	Commercial Drivers Education Program	8/12/91 (56 FR 38274)	10/11/91
84.248A	Demonstration Projects for the Integration of Vocational Learning Program.	To be announced (TBA)*	TBA

[1] For institutions needing to establish eligibility.
[2] For all others.
[3] Applicants for 84.116B must submit preapplications under 84.116A by 10/16/91.

Part II

The following Charts 2 through 7 contain fiscal and programmatic information about each of the programs announced in this notice. Each chart is followed by additional information regarding these programs.

CHART 2.—OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovern-mental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.003A Transitional Bilingual Education Program	9/30/91	1/10/92	3/10/92	$75,000-300,000	$175,000	51
84.003E Special Alternative Instructional Program	9/30/91	1/10/92	3/10/92	75,000-300,000	175,000	23
84.003G Academic Excellence Program	10/21/91	1/21/92	3/23/92	120,000-190,000	150,000	4
84.003J Family English Literacy Program	9/23/91	11/13/91	1/13/92	45,000-150,000	126,000	15
84.003L Special Populations Program	9/23/91	11/13/91	1/13/92	45,000-180,000	135,000	14
84.003Q State Educational Agency Program	9/26/91	11/29/91	1/28/92	N/A	75,000	53
84.003R Educational Personnel Training Program	9/23/91	1/27/92	3/27/92	65,000-190,000	146,000	43
84.003T Fellowship Program	10/18/91	1/17/92	N/A	2,000-15,000 (per indiv. fellow)	10,000 (per indiv. fellow)	100 (indiv. fellowships)
84.003V Short-Term Training Program	9/23/91	11/13/91	1/13/92	40,000-120,000	94,000	16

84.003A Transitional Bilingual Education Program

Purpose of Program: To provide assistance to establish, operate, or improve programs of transitional bilingual education for limited English proficient (LEP) children.

Eligible Applicants: Local educational agencies (LEAs); and institutions of higher education, including junior or community colleges, that apply jointly with one or more LEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 501.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Science and Mathematics Achievement. Projects that focus on improving the achievement of LEP students in science and mathematics.

Invitational Priority 2—Summer School Projects. Supplementary summer school projects in school districts where this type of program is not mandated or funded by local educational agencies or State educational agencies.

Invitational Priority 3—Parent Involvement. Projects that emphasize parent involvement in the educational program and training to enable parents and family members to assist in the education of LEP children.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 501.31.

In addition to the maximum of 100 points awarded under 34 CFR 501.31, the program regulations in 34 CFR 501.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 501.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 501.32(a)(1))—4 points.

(2) The relative need of the particular LEA(s) for the proposed program (34 CFR 501.32(a)(2))—4 points.

(3) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 501.32(a)(3))—3 points.

(4) The number and proportion of children from low-income families to be benefited by the program (34 CFR 501.32(a)(4))—4 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Luis A. Catarineau, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6641. Telephone: (202) 732-5700.

Program Authority: 20 U.S.C. 3291.

84.003E Special Alternative Instructional Program

Purpose of Program: To provide assistance to establish, operate, or improve special alternative instructional programs for limited English proficient (LEP) children.

Eligible Applicants: Local educational agencies (LEAs); and institutions of higher education, including junior or community colleges, that apply jointly with one or more LEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 501.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Science and Mathematics Achievement. Projects that focus on improving the achievement of LEP students in science and mathmatics.

Invitational Priority 2—Summer School Projects. Supplementary summer school projects in school districts where this type of program is not mandated or funded by local educational agencies or State educational agencies.

Invitational Priority 3—Parent Involvement. Projects that emphasize parent involvement in the educational program and training to enable parents and family members to assist in the education of LEP children.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 501.31.

In addition to the maximum of 100 points awarded under 34 CFR 501.31, the program regulations in 34 CFR 501.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 501.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 501.32(a)(1))—4 points.

(2) The relative need of the particular LEA(s) for the proposed program (34 CFR 501.32(a)(2))—4 points.

(3) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 501.32(a)(3))—3 points.

(4) The number and proportion of children from low-income families to be benefited by the program (34 CFR 501.32(a)(4))—4 points.

In addition to the 15 points distributed among the factors listed in 34 CFR 501.32(a), the program regulations in 34 CFR 501.33(b) provide that the Secretary may distribute 5 additional points

among the factors listed in 34 CFR 501.33(a). For this competition the Secretary distributes the 5 additional points as follows:

(1) The administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language (34 CFR 501.33(a)(1))—2 points.

(2) The unavailability of personnel qualified to provide bilingual instructional services (34 CFR 501.33(a)(2))—2 points.

(3) The presence of a small number of LEP students in the LEA's schools and the LEA's inability to obtain native language teachers because of isolation or regional location (34 CFR 501.33(a)(3))—1 point.

Project Period: Up to 36 months.

For Applications or Information Contact: Robert M. Trifiletti, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6641. Telephone: (202) 732-5700.

Program Authority: 20 U.S.C. 3291.

84.003G Academic Excellence Program

Purpose of Program: To provide assistance to disseminate effective bilingual education practices for limited English proficient (LEP) students.

Eligible Applicants: Local educational agencies; institutions of higher education, including junior or community colleges; and nonprofit private organizations applying separately or jointly.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b). The regulations for this program in 34 CFR parts 500 and 524.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 524.31.

In addition to the maximum of 100 points awarded under 34 CFR 524.31, the program regulations in 34 CFR 524.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 524.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 524.32(a)(1)(i))—6 points.

(2) The need to provide funding according to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 524.32(a)(1)(ii))—8 points.

(3) The relative numbers of children from low-income families likely to be benefited by the project (34 CFR 524.32(a)(2))—1 point.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. Mary T. Mahony, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-5722.

Program Authority: 20 U.S.C. 3291.

84.003J Family English Literacy Program

Purpose of Program: To provide assistance to establish, operate, and improve family English literacy programs for limited English proficient (LEP) persons and their families.

Eligible Applicants: Local educational agencies (LEAs); institutions of higher education, including junior or community colleges; and nonprofit private organizations applying separately or jointly.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 525.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Facilitating Achievement of LEP Children in Grades 4-6. Instruction in methods by which parents and family members can facilitate the educational achievement of LEP children in one or more grade levels from the fourth grade through the sixth grade.

This priority arises from the special developmental and educational needs of children in grades 4-6 and the fact that most past projects under this program have focused on facilitating student achievement in lower grade levels.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 525.31.

In addition to the maximum of 100 points awarded under 34 CFR 525.31, the program regulations in 34 CFR 525.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 525.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 525.32(a)(1))—4 points.

(2) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 525.32(a)(2))—8 points.

(3) The need for financial assistance to establish, operate, or improve programs for limited English proficient persons (34 CFR 525.32(a)(3))—2 points.

(4) The relative numbers of children from low-income families sought to be benefited by the program (34 CFR 525.32(a)(4))—1 point.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. Mary T. Mahony, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-5722.

Program Authority: 20 U.S.C. 3291.

84.003L Special Populations Program

Purpose of Program: To provide assistance to preschool, special education, and gifted and talented programs for limited English proficient (LEP) children that are preparatory or supplementary to programs such as those assisted under the Bilingual Education Act.

Eligible Applicants: Local educational agencies; institutions of higher education, including junior or community colleges; and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 526.

Priority: Under 34 CFR 75.105(c)(2)(ii) and 34 CFR 526.30(a) the Secretary gives preference to applications that meet the following competitive priority. An application that meets this competitive priority is selected by the Secretary over applications of comparable merit that do not meet the priority:

Preschool Programs: Preparatory or supplementary preschool programs for LEP children who have not reached elementary school age.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 526.32.

In addition to the maximum of 100 points awarded under 34 CFR 526.32, the program regulations in 34 CFR 526.31(b) and 34 CFR 525.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 525.32(a). For this competition the

Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 525.32(a)(1))—5 points.

(2) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 525.32(a)(2))—6 points.

(3) The need for financial assistance to establish, operate, or improve programs for limited English proficient persons (34 CFR 525.32(a)(3))—1 point.

(4) The relative numbers of children from low-income families sought to be benefited by the program (34 CFR 525.32(a)(4))—3 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Barbara J. Wells, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-1840.

Program Authority: 20 U.S.C. 3291.

84.003Q State Educational Agency Program

Purpose of Program: To provide assistance to collect, aggregate, analyze, and publish data and information on limited English proficient persons and to improve the effectiveness of bilingual education programs.

Eligible Applicants: State educational agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 548.

Project Period: Up to 36 months.

For Applications or Information Contact: Luis A. Catarineau, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6641. Telephone: (202) 732-5700.

Program Authority: 20 U.S.C. 3302.

84.003R Educational Personnel Training Program

Purpose of Program: To provide assistance to meet the needs for additional or better trained educational personnel for programs for limited English proficient (LEP) persons.

Eligible Applicants: Institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 561.

Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Mathematics or Science Teachers. Training to prepare teachers of mathematics or science to participate in programs for LEP children.

This type of training is needed to implement the AMERICA 2000 strategy to achieve the National Education Goal of U.S. students being the first in the world in mathematics and science achievement.

Invitational Priority 2—Collaboration with Local Educational Agencies. Training conducted in collaboration with local educational agencies (LEAs) to prepare LEA educational personnel to participate in programs for LEP children.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 561.31.

In addition to the maximum of 100 points awarded under 34 CFR 561.31, the program regulations in 34 CFR 561.32(b) provide that the Secretary distributes 10 additional points among the factors listed in 34 CFR 561.32(a). For this competition the Secretary distributes the 10 additional points as follows:

(1) Job placement and development (34 CFR 561.32(a)(1))—1 point.

(2) Evidence of prior participant's success in serving LEP children in accordance with the needs identified in the prior project (34 CFR 561.32(a)(2))—1 point.

(3) Evidence of demonstrated capacity and cost effectiveness as described in 34 CFR 561.31 (d) and (f) (34 CFR 561.32(a)(3))—8 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Cynthia J. Ryan, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-5722.

Program Authority: 20 U.S.C. 3321.

84.003T Fellowship Program

Purpose of Program: To provide assistance, through approved institutions of higher education, to full-time students pursuing graduate degrees in areas related to programs for limited English proficient persons.

Eligible Applicants: Institutions of higher education (IHEs). Any individual wishing to obtain a fellowship must apply to an IHE approved for participation in this program, not to the U.S. Department of Education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 562.

Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Doctoral Programs of Study. Applications proposing programs of study that lead to a doctoral degree.

Project Period: Up to 36 months.

For Applications or Information Contact: Joyce M. Brown, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-5727 or 5729.

Program Authority: 20 U.S.C. 3323.

84.003V Short-Term Training Program

Purpose of Program: To provide assistance to improve the skills of educational personnel and parents participating in programs for limited English proficient (LEP) persons.

Eligible Applicants: Local educational agencies (LEAs); State educational agencies (SEAs); and institutions of higher education, including junior or community colleges, and for-profit or nonprofit private organizations that apply (1) after consultation with one or more LEAs or SEAs or (2) jointly with one or more LEAs or SEAs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 574.

Priorities:

Competitive Priority. Under 34 CFR 75.105(c)(2)(ii) and 34 CFR 574.30(a) the Secretary gives preference to applications that meet the following competitive priority. An application that meets this competitive priority is selected by the Secretary over applications of comparable merit that do not meet the priority:

Training designed to improve the instructional competence of teachers in carrying out their responsibilities in programs for LEP persons (34 CFR 574.10(a)).

Invitational Priorities: Within the competitive priority specified in this notice, the Secretary is particularly interested in applications that meet one

of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Regular Elementary Classroom Teachers. Training designed to improve the competence of teachers in regular classrooms in providing instruction to LEP students at elementary grade levels.

Invitational Priority 2—Teachers of Secondary Core Subjects. Training designed to improve the competence of teachers in providing instruction in mathematics, science, English, history, and geography to LEP students at secondary grade levels.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 574.32.

In addition to the maximum of 100 points awarded under 34 CFR 574.32, the program regulations in 34 CFR 574.33(b) provide that the Secretary distributes 10 additional points among the factors listed in 34 CFR 574.33(a). For this competition the Secretary distributes the 10 additional points as follows:

(1) Evidence of prior participants' success in serving LEP children in accordance with needs identified in the prior project (34 CFR 574.33(a)(1))—1 point.

(2) Evidence of demonstrated capacity and cost effectiveness as provided in 34 CFR 574.32(d) and (f) (34 CFR 574.33(a)(2))—9 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Petraine A. Johnson, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6642. Telephone: (202) 732-5722.

Program Authority: 20 U.S.C. 3321.

CHART 3.—OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
Library Programs						
All programs have been announced or are to be announced at a later date. (See Chart 1).						
Fund for the Improvement and Reform of Schools and Teaching (FIRST)						
All programs have been announced or are to be announced at a later date. (See Chart 1).						
Office of Research						
84.117E Educational Research Grant Program—Field-Initiated Studies	10/11/91	1/10/92	N/A	$40,000-80,000	$67,000	15
Programs for the Improvement of Practice						
84.073A National Diffusion Network—New Developer Demonstrator Projects	2/18/92	4/10/92	6/10/92	$60,000-100,000	$75,000	27
84.073E National Diffusion Network—New Dissemination Process Projects	3/20/92	5/29/92	7/29/92	90,000-120,000	110,000	1
National Center for Education Statistics						
84.999B National Assessment of Educational Progress Data Reporting Program	9/27/91	11/15/91	N/A	$60,000-150,000	$90,000	10

84.117E Educational Research Grant Program—Field-Initiated Studies Program

Purpose of Program: To support field-initiated studies designed to advance educational theory and practice.

Eligible Applicants: Institutions of higher education; public and private organizations, institutions, and agencies; and individuals.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 700.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 700.22.

The program regulations in 34 CFR 700.20(b)(2) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 25 points. For this competition the Secretary distributes the 25 points as follows:

Significance (34 CFR 700.22(f)). Fifteen points are added to this criterion for a possible total of 30 points.

Technical soundness (34 CFR 700.22(g)). Ten points are added to this criterion for a possible total of 25 points.

Project Periods: Up to 18 months.

For Applications or Information Contact: Delores Monroe, U.S. Department of Education, 555 New Jersey Avenue, NW. room 620, Washington, DC 20208-5646. Telephone: (202) 219-2223.

Program Authority: 20 U.S.C. 1221e.

84.073A National Diffusion Network Program: New Developer Demonstrator Projects

Purpose of Program: To provide grants to disseminate to new sites nationwide, exemplary education programs that have been previously approved by the Department of Education's Program Effectiveness Panel.

Eligible Applicants: Public or nonprofit private agencies, organizations, or institutions that have developed programs, products, or practices that (a) have Program Effectiveness Panel approval or Joint Dissemination Review Panel approval and (b) are in use in sites that can be visited.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85,

and 86; (b) The regulations for Student Rights in Research, Experimental Activities, and Testing in 34 CFR part 98; and (c) The regulations for this program in 34 CFR parts 785 and 786.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 786.3(b), the Secretary gives an absolute preference to applications that meet the following priorities:

Applications proposing projects in English, mathematics or higher mathematics, science at the secondary level, history, or geography.

The Secretary intends to reserve $1,000,000 to fund applications that meet these priorities. The Secretary may adjust this amount if the Secretary does not receive sufficient high-quality applications addressing these priorities to use the funds reserved. The Secretary uses the remainder of the funds to support applications in any other subject areas listed in 34 CFR 786.3(b).

Project Period: Up to 48 months.

For Applications or Information Contact: Carolyn S. Lee, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208-5645. Telephone: (202) 219-2134.

Program Authority: 20 U.S.C. 2962.

84.073E National Diffusion Network Program: New Dissemination Process Projects

Purpose of Program: To provide grants to disseminate to new sites nationwide, information, instructional materials, and services concerning specific content areas, bodies of research, or fields of professional development that have been previously approved by the Department of Education's Program Effectiveness Panel.

Eligible Applicants: Public or nonprofit private agencies, organizations, or institutions that have in operation a dissemination process that has current Program Effectiveness Panel approval.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; (b) The regulations for Student Rights in Research, Experimental Activities, and Testing in 34 CFR part 98; and (c) The regulations for this program in 34 CFR parts 785, 786.3, and 787.

Project Period: Up to 48 months.

For Applications or Information Contact: Helen O'Leary, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208-5645. Telephone: (202) 219-2134.

Program Authority: 20 U.S.C.

84.999B National Assessment of Educational Progress Data Reporting Program

Purpose of Program: To encourage eligible parties to use existing approaches and develop new ideas for analyzing and reporting on the data from the 1990 National Assessment of Educational Progress (NAEP) and the 1991 High School Transcript Study.

Eligible Applicants: Institutions of higher education; public and private institutions, agencies, and other qualified organizations; and consortia of public and private institutions, agencies, and other qualified organizations.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86.

Priorities: The priorities in the notice of proposed priorities for this program, published in the **Federal Register** on June 12, 1991 (56 FR 27152), apply to this competition.

Supplementary Information: On June 12, 1991, the Secretary published a notice of proposed priorities for this program in the **Federal Register** (56 FR 27152). The public comment period for the notice of proposed priorities ended on July 12, 1991.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities to allow sufficient time to conduct the competition and issue awards early in fiscal year 1992.

The Secretary did not receive any comments on the notice of proposed priorities. However, the Secretary has reviewed the priorities since publication of the notice of proposed priorities and anticipates making two changes in order to clarify the final priorities. The first change clarifies Competitive Priority 2 by stating explicitly that the purpose of this priority is to expand the dissemination of NAEP data. The second change clarifies the scope of the invitational priorities by explicitly stating an interest in studies that look at both public and private schools.

Applicants should prepare their applications on the basis of the proposed priorities, subject to these clarifications. If the Secretary makes any substantive changes to the final priorities, applicants will be given an opportunity to amend or resubmit their applications.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in EDGAR, 34 CFR 75.210. EDGAR in 34 CFR 75.210(a)(2) provides that the Secretary may award up to 100 points for the criteria, including a reserved 15 points (34 CFR 75.210(c)). For this competition the Secretary distributes the 15 points as follows:

Plan of Operation: (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

Project Period: Up to 48 months.

For Applications or Information Contact: Alex Sedlacek, National Center for Education Statistics, U.S. Department of Education, 555 New Jersey Avenue, NW., room 306D, Washington, DC 20208-5653. Telephone: (202) 219-1734.

Program Authority: 20 U.S.C. 1221e-1.

CHART 4.—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.014B Follow Through Program—Local Projects	2/7/92	4/27/92	6/29/92	$180,000-220,000	$200,000	5
84.014C Follow Through Program—Sponsors	2/7/92	4/27/92	6/29/92	150,000-200,000	180,000	2
84.061A Educational Services for Indian Children	10/16/91	1/8/92	3/11/92	46,000-250,000	133,000	3
84.062A Educational Services for Indian Adults	10/16/91	1/8/92	3/11/92	45,000-250,000	150,000	12
84.072A Indian-Controlled Schools—Enrichment Projects	10/16/91	1/8/92	3/11/92	87,000-358,000	267,000	2
84.083A Women's Educational Equity Act	1/6/92	3/11/92	5/11/92	2,000-200,000	N/A	15
84.087A Indian Fellowship Program	12/13/91	2/7/92	N/A	1,200-32,000	13,000	30
84.123A Law-Related Education Program	1/2/92	3/2/92	5/2/92	10,000-400,000	125,000	15

CHART 4.—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION—Continued

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.184A Drug-Free Schools and Communities Program—Demonstration Grants to Institutions of Higher Education	12/6/91	1/21/92	3/20/92	150,000-550,000	350,000	9
84.184B Drug-Free Schools and Communities Program—Federal Activities Grants Program	10/28/91	12/20/91	2/20/92	100,000-400,000	250,000	8
84.190A Christa McAuliffe Fellowship Program	9/26/91	12/13/91	N/A	16,650-34,800	28,170	71
84.207A Drug-Free Schools and Communities—School Personnel Training Grants	10/15/91	12/4/91	2/3/92	100,000-300,000	200,000	30
84.214A Migrant Education Even Start Program	2/21/92	4/20/92	6/20/92	99,000-187,000	163,000	3
84.233A Drug-Free Schools and Communities—Emergency Grants	1/3/92	2/18/92	4/16/92	100,000-1,000,000	500,000	18
84.241A Drug-Free Schools and Communities—Counselor Training Grants Program	12/6/91	1/21/92	3/20/92	50,000-100,000	75,000	45

84.014B Follow Through Program—Local Projects

Purpose of Program: To serve educational needs of children, primarily from low-income families, in kindergarten through grade 3 who have had Head Start or similar quality preschool experiences.

Eligible Applicants: Local educational agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 215, as amended on April 12, 1991 (56 FR 14980).

Project Period: Up to 60 months.

For Applications or Information Contact: Patricia McKee. U.S. Department of Education, 400 Maryland Avenue, SW., room 2017, Washington, DC 20202. Telephone: (202) 401-1692.

Program Authority: 42 U.S.C. 9861-9869.

84.014C Follow Through Program—Sponsors

Purpose of Program: To serve educational needs of children, primarily from low-income families, in kindergarten through grade 3 who have had Head Start or similar quality preschool experiences.

Eligible Applicants: Public and nonprofit private agencies, institutions, and organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 215, as amended on April 12, 1991 (56 FR 14980).

Project Period: Up to 60 months.

For Applications or Information Contact: Patricia McKee. U.S. Department of Education, 400 Maryland Avenue, SW., room 2017, Washington, DC 20202. Telephone: (202) 401-1692.

Program Authority: 42 U.S.C. 9861-9869.

84.061A Educational Services for Indian Children

Purpose of Program: (1) To improve educational opportunities for Indian children by providing educational services that are not available in sufficient quantity or quality; (2) to introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children; and (3) to encourage Indian students to acquire a higher education and to reduce the incidence of dropouts among Indian elementary and secondary school students.

Eligible Applicants: For grants under purposes (1) and (2): State educational agencies; local educational agencies (LEAs); Indian tribes; and Indian organizations and Indian institutions. For grants under purpose (3): Consortia of Indian tribes or Indian organizations, LEAs, and institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 253.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335. Telephone: (202) 401-1902.

Program Authority: 25 U.S.C. 2621 (a), (c).

84.062A Educational Services for Indian Adults

Purpose of Program: To provide grants for educational service projects designed to improve educational opportunities for Indian adults.

Eligible Applicants: Indian tribes; Indian organizations; and Indian institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82 and 85; and (b) The regulations for this program in 34 CFR parts 250 and 257.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335. Telephone: (202) 401-1902.

Program Authority: 25 U.S.C. 2631.

84.072A Indian-Controlled Schools—Enrichment Projects

Purpose of Program: To provide grants for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in those Indian-controlled elementary and secondary schools or local educational agencies (LEAs) eligible under the statute and regulations.

Eligible Applicants: Indian tribes; Indian organizations; and LEAs that have been in existence not more than three years.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 252.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Project Period: Up to 36 months.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335. Telephone: (202) 401-1902.

Program Authority: 25 U.S.C. 2602(c).

84.083A Women's Educational Equity Act

Purpose of Program: To promote educational equity for women and girls at all levels of education—particularly those who suffer multiple discrimination, bias, or stereotyping—and to provide financial assistance to help educational agencies and institutions meet the requirements of Title IX of the Education Amendments of 1972.

Eligible Applicants: Public agencies, institutions, and organizations; nonprofit private agencies, institutions, and organizations, including student and community groups; and individuals.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The Regulations for this program in 34 CFR parts 245 and 246.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 245.12 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary first funds under general significance and challenge grants applications that meet this absolute priority:

Projects to develop new educational programs, training programs, counseling programs, or other programs designed to increase the interest and participation of women in instructional courses in mathematics, science, and computer science.

Note: An applicant must indicate if it is submitting its application under this priority. Applications under this priority compete against other applications submitted under this priority for funds allocated to this priority.

Supplementary Information: Under 34 CFR 75.105(c)(3)(ii) the Secretary allocates funds to the absolute priority after determining the number of high-quality applications received under the priority. An applicant may propose a project that is not under the priority but is within the scope of other authorized activities described in 34 CFR 245.11. These applications will compete for the remaining funds not allocated to the priority. If an applicant fails to indicate that its proposed project is under the priority, the application will compete with other applications not evaluated under this priority. Challenge grants may not exceed $40,000 each.

Project Period: Up to 24 months.

For Applications or Information Call: Frank B. Robinson, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, Washington, DC 20202-6246. Telephone: (202) 401-1342.

Program Authority: 20 U.S.C. 3042.

84.087A Indian Fellowship Program

Purpose of Program: To provide fellowships enabling Indian students to pursue postbaccalaureate degrees in medicine, psychology, law, education, clinical psychology, and related fields, or undergraduate or postbaccalaureate degrees in business administration, engineering, natural resources, and related fields.

Eligible Applicants: American Indian students; and Alaska Native students.

Applicable Regulations: (a) The Education Department General Adminisrative Regulations (EDGAR) in 34 CFR part 85 and (b) The regulations for this program in 34 CFR part 263.

Supplementary Information: The Secretary expects to set the maximum for stipends at $750 per month and the maximum allowance for dependent care at $110 per month for each dependent.

Project Period: One to four years or until degree program is completed.

For Applications or Information Contact: John Derby, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335. Telephone: (202) 401-1902.

Program Authority: 25 U.S.C. 2623.

84.123A Law-Related Education

Purpose of Program: To provide persons with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which these are based.

Eligible Applicants: State educational agencies; local educational agencies; and public or nonprofit private agencies, organizations, and institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 241.

Project Period: Up to 36 months.

Priorities:

Absolute Priorities. Under 34 CFR 75.105(c)(3) and 34 CFR 241.11(a) and Secretary gives absolute preference to applications that meet one or more of the following priorities. The Secretary funds under this competition only applications that meet one or more of these absolute priorities:

Absolute Priority 1. Projects that support the institutionalization of existing model law-related education programs in elementary and secondary school classrooms.

Absolute Priority 2. Projects that provide assistance from established law-related education programs to other State and local educational agencies to enable them to institutionalize successful law-related education programs.

Absolute Priority 3. Projects that support the development, testing, demonstration, and dissemination of new approaches or techniques in law-related education that can be used or adapted and eventually institutionalized by other agencies and institutions.

Competitive Priority. Within the absolute priorities specified in this notice, the Secretary, under 34 CFR 75.105(c)(2)(i) and 34 CFR 241.11(b) and in accordance with the Education Council Act of 1991 (Pub. L. 101-62, enacted June 27, 1991), gives preference to applications that meet the following competitive priority. The Secretary awards up to 5 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program:

Projects to operate statewide programs in law-related education.

For Applications or Information Call: Frank B. Robinson, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, Washington, DC 20202-6246. Telephone: (202) 401-1342.

Program Authority: 20 U.S.C. 2695, as amended by Pub. L. 102-62, 105 Stat. 305 (1991).

84.184A Drug-Free Schools and Communities Program—Demonstration Grants to Institutions of Higher Education

Purpose of Program: To award grants for model demonstration programs coordinated with local elementary and secondary schools for the development and implementation of quality drug and alcohol abuse education and prevention programs.

Eligible Applicants: Institutions of higher education (IHEs); and consortia of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 234.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 234.4 the Secretary gives an absolute preference to applications that meet the following priorities. The

Secretary funds under this competition only applications that meet both these absolute priorities:

Absolute Priority 1: Projects that demonstrate the effectiveness of drug and alcohol prevention strategies. These demonstration projects would test the theories of prevention, assess techniques to improve program delivery, and modify effective strategies to serve the needs of other populations, such as high-risk youth.

Absolute Priority 2: Projects involving faculty of IHEs, teachers in elementary and secondary schools, and community representatives in the practical application of the findings of educational research and evaluation and the integration of research into drug and alcohol abuse education and prevention programs.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Concept design and contribution to improving the quality of drug and alcohol abuse education and prevention activities (34 CFR 231.22(a)). Ten points are added to this criterion for a possible total of 30 points.

Evaluation Plan 34 CFR 231.22(e)). Five points are added to this criterion for a possible total of 25 points.

Project Period: Up to 36 months, in 12-month increments.

For Applications or Information Contact: The Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202-6439. Telephone: (202) 401-1258.

Program Authority: 20 U.S.C. 3211.

84.184B Drug-Free Schools and Communities Program—Federal Activities Grants Program

Purpose of Program: To award grants to support drug and alcohol abuse education and prevention activities.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and other nonprofit agencies, organizations, and institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 235.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 235.5 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Implementation of projects that are centered at school locations and that are designed to intervene and prevent—through counseling, community outreach services, parent education, and student assistance programs—the use of alcohol by youth in grades K-12, particularly high-risk youth.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Concept design and contribution to improving the quality of drug and alcohol abuse education and prevention activities (34 CFR 231.22(a)). Five points are added to this criterion for a possible total of 25 points.

Applicant's commitment and capacity (34 CFR 231.22(f)). Ten points are added to this criterion for a possible total of 20 points.

Project Period: Up to 24 months, in 12-month increments.

For Applications or Information Contact: The Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202-6439. Telephone: (202) 401-1258.

Program Authority: 20 U.S.C. 3212.

84.190A Christa McAuliffe Fellowship Program

Purpose of Program: To provide fellowships to enable and encourage outstanding teachers to continue their education or to develop educational projects and programs.

Eligible Applicants: Teachers (1) who are citizens, nationals, or permanent residents of the United States or permanent residents of American Samoa, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or Palau, and (2) who teach full-time in an elementary or secondary school in a local educational agency, in a private school, or in a private school system.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 77, 82, and 85; and (b) The regulations for this program in 34 CFR part 237.

Project Period: Up to 12 months.

For Applications: Call or write State Contact Persons (see list at end of this program announcement).

For Information Contact: Janice Williams-Madison, U.S. Department of Education, 400 Maryland Avenue, SW., room 2049, Washington, DC 20202-6246. Telephone: (202) 401-1059.

Program Authority: 20 U.S.C. 1113-1113e.

State Contact Persons for Applications:

Alabama

Mr. William C. Ward, Alabama Department of Education, 50 North Ripley, Room 3345, Montgomery, Alabama 36130-3901, (205) 242-8082.

Alaska

Ms. Rosemary Hagevig, Alaska Department of Education, P.O. Box F, Juneau, Alaska 99811-0500, (907) 465-2884.

American Samoa

Mr. Russell Aab, Department of Education, American Samoa Government, Pago Pago, American Samoa 96799, (684) 633-5237.

Arizona

Mr. Bill Hunter, Arizona Department of Education, 1535 West Jefferson Street, Phoenix, Arizona 85007, (602) 542-2147.

Arkansas

Ms. Brenda Matthews, Arkansas Department of Education, No. 4 Capitol Mall, Little Rock, Arkansas 72201, (501) 682-4251.

California

Ms. Lynn Bartholomew, Child Development and Education, 1121 L Street, Suite 600, Sacramento, California 95814, (916) 323-0611.

Colorado

Ms. Terri Malucci, Colorado Department of Education, 201 East Colfax Avenue, Denver, Colorado 80203, (303) 866-6866.

Connecticut

Ms. Alma Exley, Connecticut State Department of Education, Post Office Box 2219, Hartford, Connecticut 06145, (203) 566-7591.

Delaware

Dr. Henry Harper, Department of Public Instruction, Townsend Building, Dover, Delaware 19903, (302) 739-3743.

District of Columbia

Ms. Jean Green, Office of Postsecondary Education, Research and Assistance, 2100 Martin Luther King Jr. Avenue, SE., Suite 401, Washington, DC 20020-5732, (202) 727-3685.

Florida

Ms. Mary Lou Carothers, Florida State Department of Education, G20-Collins, Room 124, Tallahassee, Florida 32099, (904) 488-6503.

Georgia

Ms. Gale Samuels, Georgia Department of Education, 2052 Twin Towers East, Atlanta, Georgia 30334, (404) 656-2476.

Guam

Ms. Ernestine Cruz, Administrator of Federal Programs, P.O. Box DE, Agana, Guam 96910, (671) 472-8524.

Hawaii

Mr. Ronald Toma, Hawaii Department of Education, P.O. Box 2360, Room 301, Honolulu, Hawaii 96864, (808) 586-3269.

Idaho

Mr. Jeff Shinn, Executive Office of the Governor, State House, Room 122, Boise, Idaho 83720, (208) 334-3138.

Illinois

Dr. Mary Ann Louderback, State Capitol, Room 2½, Springfield, Illinois 62706, (217) 782-2654.

Indiana

Ms. Betty Johnson, Indiana Department of Education, 251 East Ohio, Indianapolis, Indiana 46204, (317) 232-9141.

Iowa

Ms. Sharon Slezak, Iowa Department of Education, Grimes State Building, Des Moines, Iowa 50319, (515) 281-3750.

Kansas

Mr. Robert Gast, Kansas State Board of Education, 120 East 10th Street, Topeka, Kansas 66612, (913) 272-0634.

Kentucky

Mr. Jack D. Foster, Secretary, Education and Humanities Cabinet, Office of the Governor, State Capitol Building, Room 105, Frankfort, Kentucky 40601, (502) 564-2611.

Louisiana

Dr. Janie Ponthieux, Department of Education, Post Office Box 94064, Baton Rouge, Louisiana 70804-9064, (504) 342-3414.

Maine

Ms. Mary Majorowicz, Maine Department of Education, State House Station 23, Augusta, Maine 04333, (207) 289-5113.

Maryland

Dr. Virginia Pilato, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, (301) 333-2152.

Massachusetts

Ms. Barbara Libby, State Department of Education, 1385 Hancock Street, Quincy, Massachusetts 02169, (617) 770-7610.

Michigan

Ms. Ellen Carter Cooper, Michigan Department of Education, P.O. Box 30008, Lansing, Michigan 48909, (517) 373-3608.

Minnesota

Mr. Richard Clark, Minnesota Department of Education, 625 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, (612) 296-4071.

Mississippi

Ms. Julia Bounds, Mississippi Department of Education, Post Office Box 771, Jackson, Mississippi 39205, (601) 359-3519.

Missouri

Ms. Georganna Beachboard, Missouri Department of Education, Post Office Box 480, Jefferson City, Missouri 65102, (314) 751-2661.

Montana

Ms. Nancy Coopersmith, Office of Public Instruction, Capitol Station, Helena, Montana 59620, (406) 444-5541.

Nebraska

Mr. Dean Bergman, Curriculum Services, Nebraska Department of Education, P.O. Box 94987, Lincoln, Nebraska 68509, (402) 471-2437.

Nevada

Ms. Mary Peterson, Nevada Department of Education, 400 West King Street, Carson City, Nevada 89710, (702) 687-3136.

New Hampshire

Mr. William B. Ewert, New Hampshire Department of Education, 101 Pleasant Street, Concord, New Hampshire 03301, (603) 271-2632.

New Jersey

Ms. Ann H. Hansen, New Jersey Department of Education, CN 500, Trenton, New Jersey 08625, (609) 984-6409.

New Mexico

Mr. James Gontis, State Department of Education, Education Building, De Varges and Don Gasper Streets, Santa Fe, New Mexico 87501-2786, (505) 827-6565.

New York

Dr. Charles Mackey, State Education Department, Room 5A11 Cultural Education Center, Albany, New York 12230, (518) 474-6440.

North Carolina

Dr. Jackie Jenkins, Education Advisor, Office of the Governor, 116 West Jones Street, Raleigh, North Carolina 27603-8001, (919) 733-5811.

North Dakota

Ms. Pat Laubach, Department of Public Instruction, State Capitol, Bismarck, North Dakota 58505, (701) 224-4525.

Northern Marianas

Mr. William P. Matson, Public School System, Commonwealth of the Northern Mariana Islands, P.O. Box 1370 CK, Saipan, MP 96950, (670) 322-9823.

Ohio

Ms. Donna Boylan, Ohio Department of Education, 65 S. Front Street, Columbus, Ohio 43266, (614) 466-2407.

Oklahoma

Ms. Patsy McCarley, State Department of Education, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, (405) 521-3577.

Oregon

Ms. Barbara Wolfe, Oregon Department of Education, 700 Pringle Parkway, SE., Salem, Oregon 97310, (503) 378-3566.

Palau

Mr. Masa-Aki Emesiochl, Palau Department of Education, P.O. Box 189, Koror, Palau 96940, Intl. Op. 160+680 Palau #570.

Pennsylvania

Ms. Joan Lawhead, Pennsylvania Higher Education Assistance Agency, 660 Boas Street, Harrisburg, Pennsylvania 17102-1398, (717) 975-3327.

Puerto Rico

Julio Morales, Federal Resources Office, G.P.O. Box 759, Lieutenant Cesar Gonzalez & Calas Street, Hato Rey, Puerto Rico 00919, (809) 756-5820.

Rhode Island

Mr. Edward Costa, Rhode Island Department of Education, 22 Hayes Street, Providence, Rhode Island 02908, (401) 277-2638.

South Carolina

Ms. Betty Davidson, Governor's Office, P.O. Box 11369, Columbia, South Carolina 29211, (803) 734-0448.

South Dakota

Ms. Roxie Thielen, South Dakota Department of Education, 700 Governor's Drive, Pierre, South Dakota 57501-2291, (605) 773-3134.

Tennessee

Mr. James Swain, Tennessee Department of Education, Cordell Hull Building, 4th Floor, North Wing, Nashville, Tennessee 37219, (615) 741-0878.

Texas

Ms. Evangelina G. Galvan, Texas Education Agency, 1701 N. Congress, Austin, Texas 78701, (512) 463-9327.

Utah

Dr. Roger C. Mouritsen, Utah State Office of Education, 250 East Fifth South, Salt Lake City, Utah 84111, (801) 538-7741.

Vermont

Mr. Robert McNamara, Curriculum and Instruction Unit, Department of Education, 120 State Street, Montpelier, Vermont, 05620-2501, (802) 828-3111.

Virgin Islands

Dr. Gloria Gawrych, Department of Education, 2133 Hospital Street, C'Sted, St. Croix, Virgin Islands 00820, (809) 778-9550.

Virginia

Dr. Thomas A. Elliott, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216, (804) 225-2095.

Washington

Mr. Larry Strickland, Office of Superintendent of Public Instruction, Old Capitol Building, Mail Stop FG-11, Olympia, Washington 98504, (206) 753-6747.

West Virginia

Mr. Tony Smedley, State Department of Education, 1900 E. Washington Street, Capitol Complex—Building 6, Room B337, Charleston, West Virginia 25305, (304) 348-2703.

Wisconsin

Ms. Harlene Ames, Department of Public Instruction, P.O. Box 7841, Madison, Wisconsin 53707, (608) 267-2443.

Wyoming

Mr. Jim Lendino, State Department of Education, Hathaway Building, Cheyenne, Wyoming 82002, (307) 777-6268.

84.207A Drug-Free Schools and Communities—School Personnel Training Grants

Purpose of Program: To award grants to establish, expand, or enhance programs and activities to train elementary and secondary school teachers and administrators and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and consortia of these organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 233.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 233.5 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that train teachers, administrators, guidance counselors, and other school personnel in how to involve the family and community in drug and alcohol abuse prevention, education, and intervention programs for at-risk youth.

Invitational Priorities. Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Projects that would use innovative approaches to help students suspended or otherwise removed from school because of their alcohol or other drug use return to school and complete graduation requirements.

Invitational Priority 2. Projects that would serve children of substance abusers.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22. The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Quality of key personnel (34 CFR 231.22(d)). Five points are added to this criterion for a possible total of 15 points.

Applicant's commitment and capacity (34 CFR 231.22(f)). Ten points are added to this criterion for a possible total of 20 points.

Project Period: Up to 24 months, in 12-month increments.

For Applications or Information Contact: The Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202-6439. Telephone (202) 401-1258.

Program Authority: 24 U.S.C. 3201.

84.214A Migrant Education Even Start Program

Purpose of Program: To establish and improve programs to meet the special educational needs of migrant children by integrating early childhood education and parent adult education into a unified program.

Eligible Applicants: State educational agencies, either individually or cooperatively.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 212.

Project Period: Up to 48 months.

For Applications or Information Contact: Regina Kinnard, U.S. Department of Education, 400 Maryland Avenue, SW., room 2145, Washington, DC 20202-6135. Telephone (202) 401-0742.

Program Authority: 20 U.S.C. 2743(a).

84.233A Drug-Free Schools and Communities—Emergency Grants

Purpose of Program: To award grants to eligible applicants that demonstrate significant need for additional assistance for purposes of combatting drug and alcohol abuse by students served by those applicants.

Eligible Applicants: Local educational agencies that (1) receive assistance under section 1006 of chapter 1, title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2712), or meet the criteria of section 1006(a)(1)(A) (i) and (ii) of the Act; and (2) serve an area (A) in which there is a large number or high percentage of (i) arrests for, or while under the influence of, drugs or alcohol; or (ii) convictions of youths for drug or alcohol-related crimes; (B) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and (C) that has significant drug and alcohol abuse problems, as indicated by other appropriate data.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; (b) The regulations in 34 CFR parts 98 and 99; and (c) The regulations for this program in 34 CFR parts 231 and 232.

Priorities: Under 34 CFR 75.105(c)(1) and 34 CFR 232.6, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Projects that provide technical assistance to schools in the prevention of unlawful possession, use, or distribution of illicit drugs and alcohol by students on school premises or as a part of any school activities.

Invitational Priority 2. Projects that involve parents, teachers, and school administrators in preventing drug and alcohol use by students.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 231.22.

The program regulations in 34 CFR 231.20 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Relationship to drug prevention programs implemented to comply with the Drug-Free Schools and Campuses regulations (34 CFR 231.22(b)). Fifteen points are added to this criterion for a possible total of 25 points.

Project Period: Up to 24 months, in 12-month increments.

For Applications or Information Contact: The Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400

Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone (202) 401-1258.

Program Authority: 20 U.S.C. 3216.

85.241A Drug-Free Schools and Communities—Counselor Training Grants Program

Purpose of Program: To award grants to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide the drug abuse prevention, counseling, or referral services in elementary and secondary schools. Funds under this program may not be used for treatment services.

Eligible Applicants: State educational agencies; local educational agencies (LEAs); institutions of higher education; or consortia of those agencies or institutions; and any nonprofit private agency that has an agreement with an LEA to provide training in drug abuse counseling for individuals who will provide counseling in the schools of the LEA.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR parts 98 and 99.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in EDGAR, 34 CFR 75.210. EDGAR in 34 CFR 75.210(a)(2) provides that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points (34 CFR 75.210(c)). For this program the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3). Five points are added to this criterion for a possible total of 20 points.

Quality of key personnel (34 CFR 75.210(b)(4). Five points are added to this criterion for a possible total of 12 points.

Evaluation plan (34 CFR 75.210(b)(6). Five points are added to this criterion for a possible total of 10 points.

Project Period: Up to 12 months.

For Applications or Information Contact: The Division of Drug-Free Schools and Communities, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2123, Washington, DC 20202–6439. Telephone (202) 401–1258.

Program Authority: 20 U.S.C. 3202, 3203.

CHART 5.—OFFICE OF POSTSECONDARY EDUCATION

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
84.031G Endowment Challenge Grant Program	4/15/92	6/11/92	N/A	$50,000–4,000,000	$60,000	30
84.047A Upward Bound Program	10/15/91	12/6/91	2/4/92	120,000–600,000	262,638	501
84.055A Cooperative Education Program—Administrative Projects	10/11/91	12/13/91	2/21/92	25,000–300,000	70,500	79
84.055C Cooperative Education Program—Research Projects	10/11/91	12/13/91	2/21/92	20,000–100,000	100,000	2
84.055D Cooperative Education Program—Training and Resource Center Projects	10/11/91	12/13/91	2/21/92	20,000–100,000	100,000	2
84.094B Patricia Roberts Harris Fellowships Program—Graduate and Professional Study Fellowships	10/15/91	11/15/91	1/14/92	12,000–384,000	87,830	200
84.097A Law School Clinical Experience Program	11/4/91	1/21/92	3/20/92	75,000–100,000	83,333	12
84.170A Jacob K. Javits Fellows Program	10/18/91	2/3/92	N/A	6,000–16,000 (per indiv. fellow)	11,000 (per indiv. fellow)	100 (indiv. fellowships)
Fund for the Improvement of Postsecondary Education (FIPSE)						
84.116F Fund for the Improvement of Postsecondary Education—Innovative Projects for Student Community Service	9/20/91	12/18/91	2/19/92	$20,000–70,000	$50,000	15
84.116G Fund for the Improvement of Postsecondary Education—Practitioner Scholars (Invitational Priority: Lecture Series)	9/27/91	12/10/91	2/11/92	N/A	5,000	6
84.116K Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Projects in Science and the Humanities)	1/15/92	4/1/92	5/31/92	20,000–100,000	No estimate (new program)	7
84.183A Drug Prevention Programs in Higher Education—Institution-Wide Program	10/18/91	1/21/92	N/A	10,000–250,000	100,000	100
84.183B Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program	12/3/91	4/25/92	N/A	100,000–250,000	200,000	5
84.183D Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention)	11/20/91	2/24/92	N/A	5,000–40,000	34,000	47
84.183E Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects	11/4/91	1/13/92	N/A	35,000–150,000	No estimate (new program)	10
84.183F Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects	11/4/91	1/13/92	N/A	Up to 150,000	No estimate (new program)	8

84.031G Endowment Challenge Grant Program

Purpose of Program: To provide matching grants to eligible applicants to establish or increase their endowment funds.

Eligible Applicants: Institutions of higher education that are designated as eligible. A notice was published in the **Federal Register** on August 1, 1991 (56 FR 36780) informing interested parties how to be designated as eligible to apply for Endowment Challenge Grant funds.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 74.61(h) or 74.62, as applicable, 74.80 through 74.85, 75.100 through 75.102, and 75.217 (d) and (e); and in 34 CFR Parts 82, 85 and 86; and (b) The regulations in 34 CFR Part 628.

Project Period: 240 months (20 years).

Fundraising Period: 18 months (September, 1992–March, 1993).

For Applications for Information: Contact: Ms. Anne Price-Collins U.S. Department of Education, 400 Maryland Avenue, SW., Room 3042, ROB–3, Washington, D.C. 20202–5337. Telephone: (202) 708–8866.

Applications will be sent to those institutions designated as eligible under the Title III Programs.

Program Authority: 20 U.S.C. 1065a.

84.047A Upward Bound Program

Purpose of Program: To provide grants to carry out projects designed to generate in student participants the skills and motivation necessary for success in education beyond high school.

Eligible Applicants: Institutions of higher education; public and nonprofit private agencies; and—in exceptional cases—secondary schools.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86 and (b) regulations for this program in 34 CFR part 645.

Project Period: Up to 36 months.

For Application or Information Contact: Goldia D. Hodgdon, U.S. Department of Education, 400 Maryland Avenue, SW., room 3060, ROB–3, Washington, DC 20202–5249. Telephone: (202) 708–4804.

Program Authority: 20 U.S.C. 1070d–1a.

84.055A Cooperative Education Program—Administration Projects

Purpose of Program: To provide Federal financial assistance to help eligible applicants plan, establish, operate and expand cooperative education programs, including institution-wide projects.

Eligible Applicants: Institutions of higher education (IHEs); and combinations of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 631 and 632.

Project Period: Up to 60 months.

For Applications or Information Contact: Dr. John E. Bonas, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–9407.

Program Authority: 20 U.S.C. 1133–1133a.

84.055C Cooperative Education Program—Research Projects

Purpose of Program: To provide grants to institutions to conduct studies to improve, develop, or evaluate methods of cooperative education for the benefit of the cooperative education community

Eligible Applicants: Institutions of higher education (IHEs); combinations of IHEs; and public and nonprofit private agencies and organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; (b) The regulations for this program in 34 CFR parts 631 and 634.

Project Period: Up to 36 months.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 634.21(d) the Secretary gives absolute preference to applications that meet one or both of the following priorities. Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet one or both of these absolute priorities:

(a) Longitudinal studies on former cooperative education students and non-cooperative education students to determine the relationship between the students' cooperative education work experiences and one or more of the following:

(1) Initial job placement.

(2) Job advancement.

(3) Long-term earnings.

(b) Assessment of the impact of cooperative education on college retention rates and academic achievement of students participating in cooperative education, compared to nonparticipants.

For Applications or Information Contact: Dr. John E. Bonas, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–9407.

Program Authority: 20 U.S.C. 1133, 1133b.

84.055D Cooperative Education Program—Training and Resource Center Projects

Purpose of Program: To provide grants to train and assist individuals who participate in or are planning to participate in the planning, establishment, and administration of cooperative education projects.

Eligible Applicants: Institutions of higher education (IHEs); combinations of IHEs; and public and nonprofit private agencies and organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 631 and 635.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. John E. Bonas, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–9407.

Program Authority: 20 U.S.C. 1133, 1133b.

84.094B Patricia Roberts Harris Fellowships Program—Graduate and Professional Study Fellowships

Purpose of Program: To provide grants to support fellowships for graduate and professional studies to students who demonstrate financial need and are from groups who are traditionally underrepresented in graduate and professional study areas.

Eligible Applicants: Institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 649.

Project Period: Up to 36 months.

For Applications or Information Contact: Dr. Charles H. Miller, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–8395.

Program Authority: 20 U.S.C. 1134d–1134f.

84.097A Law School Clinical Experience Program

Purpose of Program: To provide grants to establish or expand programs of

clinical experience for students in the practice of law.

Eligible Applicants: Individual law schools that have been accredited by a nationally recognized agency approved by the Secretary; and combinations and consortiums of accredited law schools.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 639.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 639.11, the Secretary gives an absolute preference to applications that meet both of the following priorities. Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet both of these absolute priorities:

(a) Provide legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom; and

(b) Provide service to persons who have difficulty in gaining access to legal representation.

Supplementary Information: The authorizing statute for the program permits the Secretary to pay up to 90 percent of the cost of projects at law schools (20 U.S.C. 1134s(a)). The program regulations permit the Secretary to establish annually a lower maximum Federal share (34 CFR 639.40(a)(2)). The Secretary sets the maximum Federal share at 50 percent for fiscal year 1992.

Project Period: Up to 36 months.

For Applications or Information Contact: Barbara J. Harvey, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB-3, Washington, DC 20202-5251. Telephone: (202) 708-7863.

Program Authority: 20 U.S.C. 1134s-1134t.

84.170A Jacob J. Javits Fellows Program

Purpose of Program: To award fellowships to students of superior ability, selected on the basis of demonstrated achievement and exceptional promise for graduate study in selected fields of the arts, humanities, or social sciences.

Eligible Applicants: Students who are eligible to begin or have begun graduate study, with 20 or fewer graduate semester hours at the time of application.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except as provided in 34 CFR 650.3(b)), 77, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 650.

Project Period: Up to 48 months.

For Applications or Information Contact: Dr. Allen P. Cissell, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB-3, Washington, DC 20202-5251. Telephone: (202) 708-9415.

Program Authority: 20 U.S.C. 1134h-k.

84.116F Fund for the Improvement of Postsecondary Education—Innovative Projects for Student Community Service

Purpose of Program: To provide grants to support projects encouraging students to participate in community service activities in exchange for educational services or financial assistance in order to reduce the debt incurred by these students for attendance at institutions of higher education (IHEs).

Eligible Applicants: IHEs; combinations of IHEs; and other public agencies and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85 and 86, with the exceptions noted in 34 CFR 630.4(b); and (b) The regulations for this program in 34 CFR part 630.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32:

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Achieve the purpose of the Innovative Projects for Student Community Service Program as referenced in 34 CFR 630.11(c);

(2) Address an important problem or need;

(3) Represent an improvement upon, or important departure from, existing practice; and

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating); and

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of the availability of other funding sources for the proposed activities.

The Secretary gives equal weight to the selection criteria on significance, feasibility, and appropriateness. Within each of these criteria, the Secretary gives equal weight to each of the subcriteria. In applying the criteria, the Secretary first analyzes an application in terms of each individual criterion. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

Project Period: 12 to 24 months.

For Applications and Information Contact: FIPSE, 400 Maryland Avenue, SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone (202) 708-5750.

Program Authority: 20 U.S.C. 1135e-1135e-2.

84.116G Fund for the Improvement of Postsecondary Education—Practitioner Scholars (Invitational Priority: Lecture Series)

Purpose of Program: To provide grants to improve postsecondary education and educational opportunities.

Eligible Applicants: Institutions of postsecondary education; combinations of institutions of postsecondary

education; and other public and private educational institutions and agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86, with the exceptions noted in 34 CFR 630.4(b); and (b) The regulations for this program in 34 CFR part 630.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 630.11(b)(5) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would support efforts by postsecondary educational practitioners to contribute to knowledge about postsecondary education by producing a document or other product or by engaging in an activity designed to share the practitioner's knowledge with others.

Invitational Priority. Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects to develop and present lectures on key issues in postsecondary education at conferences and educational institutions.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32:

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Achieve the purposes of the Practitioner Scholars competition, as explained in the Absolute Priority section of this notice; and

(2) Address an important problem or need.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which the applicant is capable of carrying out the proposed project, as evidenced by—

(1) The adequacy of resources, including money, personnel, facilities, equipment, and supplies; and

(2) The qualifications of key personnel who would conduct the project.

The Secretary gives equal weight to the selection criteria on significance and feasibility. Within each of these critieria, the Secretary gives equal weight to each of the subcriteria. In applying the criteria, the Secretary first analyzes an application in terms of each individual criterion. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

Project Period: Up to 12 months.

For Applications or Information Contact: Brian Lekander, FIPSE, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 708-5750.

Program Authority: 20 U.S.C. 1135-1135a-3.

84.116K Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Projects in Science and the Humanities)

Purpose of Program: To provide grants to improve postsecondary education and educational opportunities.

Eligible Applicants: Institutions of postsecondary education; combinations of institutions of postsecondary education; and other public and private educational institutions and agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86, with the exceptions noted in 34 CFR 630.4(b); and (b) The regulations for this program in 34 CFR part 630.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 630.11(b)(1) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects addressing a particular problem area or improvement approach in postsecondary education.

Invitational Priority. Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects supporting the development of courses or curricula that link science, social science, and the humanities.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32:

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving learning in essential academic subjects by determining the extent to which it would—

(1) Address an important problem or need;

(2) Represent an improvement upon, or important departure from, existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating); and

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of availability of other funding sources for the proposed activities.

The Secretary gives equal weight to the selection criteria on significance, feasibility, and appropriateness. Within each of these criteria, the Secretary gives equal weight to each of the subcriteria. In applying the criteria, the

Secretary first analyzes an application in terms of each individual criterion. The Secretary then bases the final judgment of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

Project Period: Up to 36 months.

For Applications or Information Contact: Brian Lekander, FIPSE, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 708-5750.

Program Authority: 20 U.S.C. 1135-1135a-3.

84.183A Drug Prevention Programs in Higher Education—Institution-Wide Program

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under the Institution-Wide Program competitions support comprehensive, institution-wide programs designed to prevent or eliminate students' use of illegal drugs and abuse of other drugs and alcohol, including activities whose direct or indirect purpose is to train students, faculty, and staff in drug abuse education and prevention.

Eligible Applicants: IHEs; and consortia of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the selection criteria in 34 CFR 612.23(c)(1).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Methods and management plan (34 CFR 612.23(c)(1)(iii)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(1)(v)). Five points are added to this criterion for a possible total of 15 points.

Organizational commitment (34 CFR 612.23(c)(1)(vii)). Five points are added to this criterion for a possible total of 20 points.

Project Period: 24 months.

For Applications or Information Contact: Dr. Ronald B. Bucknam, FY 1992-A Competition, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 708-5757 or (202) 708-5750.

Program Authority: 20 U.S.C. 3211.

84.183B Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs).

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Because only IHEs and consortia of IHEs are eligible to receive awards under this competition, an interested national college student network or organization must be sponsored by an IHE. The IHE will serve as both the applicant and grantee.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priority: Under 34 CFR 75.105(c)(3), 34 CFR 612.21(c)(1), and 34 CFR 612.21(c)(2)(ii) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Applications proposing the development and implementation of projects (a) conducted in conjunction with national college student networks or organizations *and* (b) addressing one or more specific approaches or problem areas related to drug abuse education and prevention for students enrolled in IHEs.

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the selection criteria in 34 CFR 612.23(c)(2)(ii).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Design (34 CFR 612.23(c)(2)(ii)(A)). Five points are added to this criterion for a possible total of 25 points.

Organizational commitment (34 CFR 612.23(c)(2)(ii)(F)). Ten points are added to this criterion for a possible total of 20 points.

Project Period: Up to 36 months.

For Applications or Information Contact: Lavona M. Grow, FY 1992-B Competition, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 708-4850 or (202) 708-5750.

Program Authority: 20 U.S.C. 3211.

84.183D Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention)

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs).

Eligible Applicants: IHEs; and consortia of IHEs.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(c)(2)(iii)(B) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to develop, implement, operate, or improve programs that concentrate on specific approaches to the prevention of drug use or alcohol abuse.

Invitational Priority. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Applications proposing to develop, implement, operate, or improve higher education consortia for drug prevention.

Applicants are invited to propose consortia arrangements to assist either (a) local IHE drug abuse prevention professionals or (b) IHE chief executive officers and other senior administrators. In such arrangements, participants would be expected to meet monthly to work toward the development, improvement, and implementation of their own comprehensive, institution-wide programs of drug education and prevention activities and services.

Selection Criteria: In evaluating applications for Specific Approaches to Prevention grants, the Secretary uses the

selection criteria in 34 CFR 612.23(c)(2)(iii).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Need (34 CFR 612.23(c)(2)(iii)(A)). Five points are added to this criterion for a possible total of 20 points.

Methods and management plan (34 CFR 612.23(c)(2)(iii)(C)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(2)(iii)(E)). Five points are added to this criterion for a possible total of 15 points.

Project Period: 24 months.

For Applications or Information Contact: William M. Burns, FY 1992–D Competition, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB–3, Washington, DC 20202–5175. Telephone: (202) 708–9916 or (202) 708–5750.

Program Authority: 20 U.S.C. 3211.

84.183E Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under Analysis and Dissemination Program competitions support projects to analyze and disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions and Special Focus Program competitions.

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Under 34 CFR 612.2(d) eligibility under this Analysis and Dissemination Program competition is limited to current or former recipients of awards under an Institution-Wide Program competition or a Special Focus Program competition.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(d) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions or Special Focus Program competitions. Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet this absolute priority.

Invitational Priorities. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Applications by former recipients of grants under Institution-Wide Program competitions proposing to disseminate, and assist others in the implementation of, each former recipient's own successful Institution-Wide project for which departmental assistance has ended.

Invitational Priority 2. Applications by former recipients of grants under Institution-Wide Program competitions proposing to disseminate information on a specific successful approach or type of activity, examples of which have been selected from Institution-Wide projects for which departmental assistance has ended. Information would be disseminated to (a) IHEs, (b) one or more higher education associations or other national associations, or (c) both (a) and (b).

Selection Criteria: In evaluating applications for grants under the Analysis and Dissemination Program, the Secretary uses the selection criteria in 34 CFR 612.23(c)(3).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Design (34 CFR 612.23(c)(3)(i)). Five points are added to this criterion for a possible total of 35 points.

Key personnel (34 CFR 612.23(c)(3)(iii)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(3)(iv)). Five points are added to this criterion for a possible total of 15 points.

Project Period: 24 months.

For Applications or Information Contact: Donald R. Fischer, FY 1992–E Competition, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB–3, Washington, DC 20202–5175. Telephone: (202) 708–5771 or (202) 708–5750.

Program Authority: 20 U.S.C. 3211.

84.183F Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects

Purpose of Program: To provide grants to develop, implement, operate, and improve drug abuse education and prevention programs for students enrolled in institutions of higher education (IHEs). Grants under Analysis and Dissemination Program competitions support projects to analyze and disseminate successful project designs, policies, and results of projects supported under Institution-Wide Program competitions and Special Focus Program competitions.

Eligible Applicants: IHEs; and consortia of IHEs.

Note: Under 34 CFR 612.2(d) eligibility under this Analysis and Dissemination Program competition is limited to current or former recipients of awards under an Institution-Wide Program competition or a Special Focus Program competition.

Applicable Regulations: (a) The Education Departmental General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 612.

Priorities:

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(d) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to analyze successful project designs, policies, and results of projects supported under Institution-Wide Program competitions.

Invitational Priorities. Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1. Applications by current or former recipients of grants under Institution-Wide Program competitions proposing to analyze the direct and indirect impacts of all FY 1989 Institution-Wide projects for which departmental assistance has ended.

Invitational Priority 2. Applications by current or former recipients of grants under Institution-Wide Program competitions proposing to analyze special topics or issues related to the effectiveness of Institution-Wide

projects, examples of which have been selected from Institution-Wide projects for which Departmental assistance has ended.

Selection Criteria: In evaluating applications for grants under the Analysis and Dissemination Program, the Secretary uses the selection criteria in 34 CFR 612.23(c)(3).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Key personnel (34 CFR 612.23(c)(3)(iii)). Ten points are added to this criterion for a possible total of 25 points.

Evaluation (34 CFR 612.23(c)(3)(iv)). Five points are added to this criterion for a possible total of 15 points.

Project Period: Up to 24 months.

For Applications or Information Contact: Dr. Ronald B. Bucknam, FY 1992–F Competition, U.S. Department of Education, 400 Maryland Avenue, SW., room 3100, ROB–3, Washington, DC 20202–5175. Telephone: (202) 708–5757 or (202) 708–5750.

Program Authority: 20 U.S.C. 3211.

CHART 6.—OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated number of awards
Office of Special Education Programs						
84.029M Parent Training and Information Centers[1]						
All other programs have been announced or are to be announced at a later date. (See Chart 1).						
National Institute on Disability and Rehabilitation Research						
All programs have been announced or are to be announced at a later date. (See Chart 1).						
Rehabilitation Services Administration						
84.129T Experimental and Innovative Training	9/27/91	11/21/91	1/21/92	$80,000–120,000.	$100,000	3

[1] An announcement for this program appears in a separate notice in this issue of the FEDERAL REGISTER.

84.129T Experimental and Innovative Training

Purpose of Program: To support pilot projects that develop new types of training programs for rehabilitation personnel or that develop new and improved methods of training rehabilitation personnel.

Eligible Applicants: State agencies; and other public or nonprofit agencies and organizations, including institutions of higher education.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 387.

Project Period: Up to 36 months.

For Applications or Information Contact: Bruce Rose, U.S. Department of Education, 400 Maryland Avenue, SW., room 3332, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 732–1347 to request an application; (202) 732–1325 to receive further information.

Program Authority: 29 U.S.C. 774.

CHART 7.—OFFICE OF VOCATIONAL AND ADULT EDUCATION

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Estimated range of awards	Estimated avg. size of awards	Estimated No. of awards
84.101C Native Hawaiian Vocational Education Program	1/2/92	4/15/92	6/15/92	N/A	$2,220,800	1

84.101C Native Hawaiian Vocational Education Program

Purpose of Program: The Native Hawaiian Vocational Education Program provides financial assistance to projects that provide vocational education for the benefit of native Hawaiians.

Eligible Applicants: Organizations that primarily serve and represent native Hawaiians and that are recognized by the Governor of the State of Hawaii.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program is 34 CFR part 410.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 410.31.

The program regulations in 34 CFR 410.30(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 410.31(b)). Fifteen points are added to this criterion for a possible total of 35 points.

Project Period: Up to 12 months.

For Applications or Information Contact: Kate Holmberg, U.S. Department of Education, 400 Maryland Avenue, SW., room 4512, Mary E. Switzer Building, Washington, DC 20202–7242. Telephone: (202) 732–2363.

Program Authority: 20 U.S.C. 2313(c).

Invitation To Comment

The Secretary welcomes comments and suggestions for improving the annual combined application notice.

Please direct any comments and suggestions to Steven N. Schatken, Assistant General Counsel for Regulations, U.S. Department of Education, 400 Maryland Avenue, SW.,

(room 4091, FOB-6), Washington, DC 20202-2110.

Dated: September 11, 1991.

Lamar Alexander,

Secretary of Education.

Appendix

Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, EO 12372—CFDA# (commenter must insert number—including suffix letter, if any), U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905.

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315.

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866-2156.

Connecticut

Policy Development and Planning Division, Comprehensive Planning Division, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 566-3410, Attn: Richard Symonds.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 739-3326.

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, D.C. 20004, Telephone (202) 727-6111.

Florida

Janice L. Alcott, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656-3855.

Hawaii

Mary Lou Koayashi, Planning Program Manager, Office of State Planning, Office of the Governor, State Capitol—Room 406, Honolulu, Hawaii 96813, Telephone (808) 548-5893, FAX (808) 548-8172.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-8639.

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725.

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261.

Maryland

Mary Abrams, Director, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001.

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111.

Please direct Correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City,

Nevada 89710, Telephone (702) 885-4420, Attention: John B. Walker, Clearinghouse Coordinator.

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301 Telephone (603) 271-2155.

New Jersey

Richard J. Porth, Director, Division of Community Resources, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0814, Telephone (609) 292-6613.

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625-0814, Telephone (609) 292-9025.

New Mexico

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640, FAX (505) 827-3006.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499.

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224-2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266-0411, Telephone (614) 466-0698.

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843-9770.

Oregon

Attn: Delores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street, NE., Salem, Oregon 97310, Telephone (503) 373-1998.

Pennsylvania

Charles Griffith, Council Executive Director, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783-3700.

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2656.

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734-0493.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741-1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778.

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538-1535.

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828-3326.

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH-51, Olympia, Washington 98504-4151, Telephone (206) 753-4978.

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348-4010.

Wisconsin

William C. Carey, Federal/State Relations, IGA Relations, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266-1741.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal/State Relations Coordinator, Wisconsin Department of Administration, Telephone (608) 266-0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777-7574.

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472-2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Isreal Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444.

Virgin Islands

Jose L. George, Director, Office of Management and Budget, Nos. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774-0750.

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federal register

Wednesday
September 18, 1991

Part III

Department of Education

Office of Special Education and Rehabilitative Services

Office of Special Education Programs

Applications for New Awards Under the Training Personnel for the Education of Individuals With Disabilities for Fiscal Year 1992—Parent Training and Information Centers; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services, Office of Special Education Programs

[CFDA No. 84.029M]

Applications for New Awards Under the Training Personnel for the Education of Individuals With Disabilities for Fiscal Year 1992—Parent Training and Information Centers

Note to Applicants

This notice is a complete application package. The notice contains information, application forms and instructions needed to apply for a grant under this competition.

The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

This announcement is based on section 631(c) of the Individuals with Disabilities Education Act (IDEA). Technical amendments to the regulations for all the IDEA discretionary grant programs, including 34 CFR part 316—Parent Training and Information Centers, are currently being made by the Department to incorporate the 1990 statutory changes. Therefore, applicants should submit their applications based on the revised legislation. This priority supports the AMERICA 2000 Education strategy to make our communities places where learning can happen. These communities strive to have parents and others work together to meet the educational needs of all children.

Purpose of Program

This priority supports grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of infants, toddlers, children, and youth with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of children with disabilities. Such grants shall be designed to meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

Eligible Applicants

Organizations that are eligible to receive grants under this program are those private nonprofit organizations described in section 631(c)(2)(A) of IDEA. These organizations shall be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities. If the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program. Parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services.

Deadline for transmittal of applications: November 8, 1991.

Deadline for intergovernmental review: January 7, 1992.

Applications available: September 18, 1991.

Available funds: $4,250,000.

Number of projects: 30.

Funding range: $100,000 to $250,000.

Project period: Up to 60 months.

Applicable provisions: (a) Section 631(c) of the Individuals With Disabilities Education Act (IDEA); (b) The Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 81, 82, and 85; and (c) The selection criteria in 34 CFR 316.21, which are being amended to incorporate the terminology changes made in IDEA.

Priority: Under 34 CFR 75.105(c)(3) and section 631(c) of the IDEA the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority.

84.029M Parent Training and Information Centers

(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of children with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of children with disabilities. These grants shall be designed to: Meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

(2) In order to receive a grant under paragraph (1), a private nonprofit organization shall:

(A) Serve the parents of infants, toddlers, children, and youth with the full range of disabling conditions under such grant program.

(B) Demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1), and, for purposes of paragraph (1), network with clearinghouse, including those established under section 633 of this title and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children.

(3) The Secretary shall ensure that grants under paragraph (1) will—

(A) Be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas;

(B) Be targeted to parents of children with disabilities, in both urban and rural areas, or on a State, or regional basis;

(C) Serve parents of minority children with disabilities representative to the proportion of the minority population in the areas being served; and

(D) Be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.

(4) Parent training and information programs assisted under this priority shall assist parents to—

(A) Better understand the nature and needs of the disabling conditions of children;

(B) Provide followup support for educational programs of children with disabilities;

(C) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(D) Participate in educational decisionmaking processes including the development of the individualized education program of a child with a disability;

(E) Obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families; and

(F) Understand the provisions for the education of infants, toddlers, children, and youth with disabilities under this Act.

(5) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that serve or assist infants, toddlers, children, and youth with disabilities and their families and are located in the jurisdiction served by the program.

Selection Criteria

The Secretary uses the following criteria in 34 CFR 316.21, as amended, to evaluate applications for parent training and information centers:

(a) *Extent of present and projected needs.* (15 points) The Secretary reviews each application to determine the extent to which the project makes an impact on parent training and information needs, consistent with the purposes of the Act, including consideration of the impact on—

(1) The present and projected needs in the applicant's geographic area for training parents; and

(2) The present and projected training and information needs for personnel to work with parents of children and youth with handicaps.

(b) *Anticipated project results.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist parents to—

(1) Understand the nature and needs of the handicapping conditions of their children and youth;

(2) Provide follow-up support for their children and youth's educational program;

(3) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(4) Participate fully in educational decisionmaking processes, including the development of their child or youth's individualized educational program;

(5) Obtain information about the programs, services, and resources available to their children and youth and the degree to which the programs, services, and resources are appropriate to meet the needs of their children and youth; and

(6) Understand the provisions for educating children and youth under this Act.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) An effective management plan that ensures proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project;

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(e) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used on the project;

(3) The time each of the key personnel plans to commit to the project;

(4) How the applicant, as a part of its nondiscriminatory practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition; and

(5) Evidence of the applicant's past experience and training in the fields relating to the objectives of the project.

(f) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, attention (CFDA #84.029M), Washington, DC 20202-4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, attention U.S. Department of Education, Application Control Center, attention (CFDA #84.029T), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly date U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708-9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply

with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 17, 1990 (55 FR 38210 and 38211).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.029M, U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please Note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application Instructions and Forms

The appendix to this application is divided into three sections plus a section on common questions and answers, a statement regarding estimated public reporting burden, and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted applications should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80-0013, 06/90).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80-0014, 9/90) and instructions.

(Note: ED 80-0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL-A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

Authority: 20 U.S.C. 1431.

Dated: September 12, 1991.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitation Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section.

Common Questions and Answers

While we have always made every effort to make our application materials as clear and complete as possible, a major task of Division of Personnel Preparation staff from the date of the program announcement to the closing date is answering phone and mail requests with further questions. The next several pages list some of the most common issues raised by potential applicants in interpreting our regulations and application instructions.

The following issues are not hypothetical. They represent concerns repeatedly raised, even though in many cases they are answered in the regulations or application instructions. The problem seems to be that the issues are not sufficiently highlighted, or that they are disguised by the formal language of legislative documents. These issues and general responses are listed in approximately the frequency of occurrence.

- Extension of deadlines

Waivers for individual applications are not granted, regardless of the circumstances. Under very extraordinary circumstances a closing date may be changed. Such changes are announced in the **Federal Register** and apply to all applications.

- Copies of the application

Current Government-wide policy is that only an original and two copies need to be submitted. Division staff duplicate the two additional copies necessary to complete the review process by staff and peer readers. It is not required that applications be bound, though they may be if you wish. However, to facilitate our reproduction, please leave one copy unbound. Also, please do not use colored paper, foldouts, photographs, or other hard to duplicate materials. Some applicants prefer to make their own additional copies. If you do so, there is no need to submit more than two additional copies, as that is all that will be required for the review process.

- Help preparing applications

We are happy to provide general program information. Clearly it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about our application requirements and evaluation criteria, or about the announced priority. Applicants should understand that such previous contact is not required, nor does it guarantee the success of an application.

- Notification of funding

The time required to complete the evaluation of applications is extremely variable. Once applications have been received staff must determine the areas of expertise needed to appropriately evaluate the applications, identify and contact potential reviewers, convene peer review panels, and summarize and review the recommendations of the review panels. You can expect to receive notification within 3 to 6 months of the application closing date. The requested start date should therefore be a minimum of 3 months after the closing date.

- Possibility of learning the outcome of review panels prior to official notification

Every year we are called by a number of applicants who have really legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, etc. Regardless of the reason, we cannot share information about the review with anyone prior to

officially completing the review process for a competition, nor can we tell you when you will be notified. Please do not call us and ask us for this information. You will be notified as quickly as possible either by a grant negotiator (if your application is recommended for funding) or through a letter to the certifying representative (if your application is not successful).

• Length of application

The Department of Education is making a concerted effort to reduce the volume of paper work in applications to discretionary programs. The following suggestions should assist applicants to prepare applications which will convey the information necessary for the review and selection process, and also save America's forests, professional time and energy. The scope and complexity of projects are too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the importance and impact of the project as well as to make knowledgeable judgments about the methods you propose to use (design, subjects, sampling procedures, measures, instruments, data analysis strategies, etc.). Many applications include voluminous appended material. In most cases this material is not useful in the evaluation process. Very few projects require much supporting material. However, it is often helpful to have:

(1) *Staff Vitae*—When these include each person's title and role in the proposed project and contain only information that is relevant to this proposed project's activities and/or publications. Vitae for consultants and Advisory Council members should be similarly brief.

(2) *Instruments*—except in the case of generally available and well known instruments.

(3) *Agreements*—when the participation of an agency other than the applicant is critical to the project. This is particularly critical when an intervention will be implemented within an agency, or when subjects will be drawn from particular agencies. Letters of cooperation should be specific, indicating agreement to implement a particular intervention or to provide access to a particular group. General letters of support are not useful.

Except for the three items noted above, most appendix material is rarely useful. Typical extraneous materials include:

(1) Related project descriptions completed by applicant
(2) Maps
(3) State plans
(4) Brochures
(5) Copies of publications

• Use of person loading charts

Program officials and applicants often find person loading charts useful formats for showing project personnel and their time commitments to individual activities. A person loading chart is a tabular representation of major activities by number of days spent by each person involved in each activity, as shown in the following example.

TABLE #.—PERSON LOADING CHART

Activity	Time in Day(s) by Person *			
	Person A	Person B	Person C	Person D
Library Research	15	20	0	0
Hire Staff	0	0	0	5
Prepare Materials	5	25	0	0
Train Raters	0	2	0	0
Data Collection	60	60	0	0
Data Analysis	0	0	25	5
Dissemination (manuscripts, etc.)	0	1	0	10

*Note: All figures represent FTE for the academic year.

• Return of non-funded applications

Because of budget restrictions, we are no longer able to return original copies of applications. Thus, applicants should retain at least one copy of the application. Copies of reviewer comments will be mailed to all applicants.

• Delivering/sending applications to the competition manager

Applications can be mailed or hand delivered, but in either case must go to the Application Control Center at the address listed in the Mailing Instructions in this packet. Delivering/sending the application to the competition manager in the program office may prevent it from being logged in on time to the appropriate competition.

• Format for applications

Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to be sure that reviewers are able to find all relevant information.

• Allowed travel under these projects

Travel associated with carrying out the project is allowed (i.e. travel for data collection, etc.). Travel to conferences is the travel item that is most likely to be questioned during negotiations. Such travel is sometimes allowed when it is for purposes of dissemination, when there will be results to be disseminated, and when it is clear that a conference presentation or workshop is an effective way of reaching a particular target group.

• Funding of approved applications

It is often the case that the number of applications recommended for approval by the reviewers exceeds the dollars available for funding projects under a particular competition. When the panel reviews are completed for a particular competition, the individual reviewer scores and applications are ranked. The higher ranked, approved applications are funded first, and there are often lower ranked, approved applications that do not receive funding. Sometimes the one or two applications that are approved and fall next in rank order (after the projects selected for funding) are placed on hold. If dollars are freed up during negotiations or if a higher ranked applicant declines the award, the projects on hold may receive funding. If you receive a letter stating that you will not receive funding then your project has neither been selected for funding nor placed on hold.

• Issues Raised During Negotiations

During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff review. Generally, technical issues are minor issues that require clarification. Alternative approaches may be presented for your consideration, or you may be asked to provide additional information or rationale for something you have proposed to do. Sometimes issues are stated as "conditions". These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions are also raised about the proposed budget during the negotiation phase. Generally, budget issues are raised because there is inadequate justification or explanation of the particular budget item, or because the budget item does not seem important to the successful completion of the project. The grants negotiator will present the negotiation questions or issues to you and ask you to respond. If you do not understand the question, you should ask for clarification. In responding to negotiation items you should provide any additional information or clarification requested. You may feel that an issue was addressed in the application. It may not,

however, have been explained in enough detail to make it understood by reviewers, and more information should be provided. If you are asked to make changes that you feel could seriously affect the project's success you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the activities you may want to explain why and provide additional justification for the proposed expenses. Your changes, explanations, and alternative suggestions will be carefully evaluated by staff. In some instances additional negotiations or follow-up information may be needed. In such instances you will again be contacted by the grants negotiator. An award cannot be made until all negotiation issues have been resolved.

• Successful applications and estimated/projected budget amounts in subsequent years

In this era of budget deficits and need for cost containment, a conservative policy toward current and out-year budget expenditures is necessary. Projects will not be funded in excess of the amount listed in the **Federal Register** announcement. Any project approved by the reviewers that exceeds the estimated size of award will be required to be performed within the announced amount. The budget estimates that you provide in your application for out-year costs are critical for planning purposes, but they in no way represent a commitment by the Department to a particular level of funding in subsequent years. Budget modifications during the negotiation process, the findings from the initial year, or needed changes in the research design can affect your budget requirements in subsequent years. However, keep in mind that multi-year projects are likely to be level funded unless there are increases in costs attributable to significant changes in activity level. Grantees having multi-year projects will be asked to submit a continuation application and a detailed budget request prior to each year of the project.

• Difference between a cooperative agreement and a grant

A cooperative agreement is similar to a grant in that its principal purpose is to accomplish a public purpose of support or stimulation as authorized by a Federal statute. It differs from a grant in the sense that in a cooperative agreement substantial involvement is anticipated between the executive agency (in this case the Department of Education) and the recipient during the performance of the contemplated activity.

• Obtaining copies of the **Federal Register**, program Regulations and federal statutes

Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone (202) 783-3238.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, state, and zip code)*:

Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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BILLING CODE 4000-01-C

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invited comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 42 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of the information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0586, Washington, DC 20503.

(Information collection approved under OMB Control number 1820–0586. Expiration date: 7/31/92.)

BILLING CODE 4000-01-M

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 —

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
- ☐ a. contract
- b. grant
- c. cooperative agreement
- d. loan
- e. loan guarantee
- f. loan insurance

2. Status of Federal Action:
- ☐ a. bid/offer/application
- b. initial award
- c. post-award

3. Report Type:
- ☐ a. initial filing
- b. material change

For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
- ☐ a. cash
- ☐ b. in-kind; specify: nature _____
  value _____

13. Type of Payment *(check all that apply)*:
- ☐ a. retainer
- ☐ b. one-time fee
- ☐ c. commission
- ☐ d. contingent fee
- ☐ e. deferred
- ☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

[FR Doc. 91-22303 Filed 9-17-91; 8:45 am]
BILLING CODE 4000-01-C

federal register

Wednesday
September 18, 1991

Part IV

Department of Education

Office of Management

Notice Inviting Individuals To Serve as Field Readers for Grant Application Competitions

DEPARTMENT OF EDUCATION

Office of Management

Notice Inviting Individuals To Serve as Field Readers for Grant Application Competitions

AGENCY: Department of Education.

ACTION: Notice inviting individuals to serve as field readers for grant application competitions.

SUMMARY: The Secretary invites individuals to apply to serve as field readers for the evaluation of grant applications submitted for funding for fiscal year (FY) 1992 under various discretionary grant programs of the Department of Education. A field reader is an individual with expertise, in at least one education program, that supports his or her professional review of applications for discretionary grant programs.

DATES: An individual interested in serving as a field reader should submit his or her resume to the appropriate office of the Department of Education as soon as possible (see "**FOR FURTHER INFORMATION CONTACT**" section of this notice). Because some grant competitions are held early in the year, a delay in the receipt of a resume may preclude an individual from being considered for service during FY 1992.

SUPPLEMENTARY INFORMATION: The Secretary is seeking field readers to review applications for discretionary grants under a variety of programs. Examples of the types of grant programs the Department funds are contained in the FY 1992 Combined Application Notice published in this issue of the **Federal Register.**

Potential field readers will be selected to evaluate grant applications only in their respective areas of expertise and in conformance with the specific needs of each program. The Department will base this selection on the resume provided by each potential field reader. Under some—but not all—of the Department's programs, field readers are provided honoraria for their service. If travel to a review site is necessary, the Department pays a field reader's travel expenses in conformance with Federal travel regulations.

If you are interested in serving as a field reader, please review the programs contained in the Combined Application Notice to determine to which office you should submit your resume. If your expertise covers programs under more than one principal office of the Department, you are encouraged to send your resume to all appropriate offices. Please indicate the program or programs for which you are interested in reading. Depending on the particular competition, a person selected as a field reader may be asked to serve on a panel or may be asked independently to evaluate applications for grant awards. Because of the standards and needs of the Department, some applicants, although otherwise qualified, may not be selected to serve as field readers.

Each potential field reader should determine if he or she has an actual conflict of interest or the appearance of a conflict of interest as a reader (see 34 CFR 73.11 (Financial interests) and 73.30(f) (Criminal conflict of interest prohibitions)). A potential field reader who is employed should include in his or her resume the name of the employer, the potential reader's current position with that employer, and the mailing address of the employer.

FOR FURTHER INFORMATION CONTACT: A potential field reader should send his or her resume to the appropriate office or offices listed below. If additional information is required, please contact the person listed for each office. For programs under the Office of Special Education and Rehabilitative Services, a potential field reader who is deaf or hearing impaired may telephone the TDD number (202) 732-1265 between 8:30 a.m. and 5:00 p.m., Eastern time. For all other ED programs a potential reader who is deaf or hearing impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8:00 a.m. and 7:00 p.m., Eastern time.

Office of Bilingual Education and Minority Languages Affairs: Vernice Diggs, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6510. Telephone: (202) 732-5071.

Office of Educational Research and Improvement: Walter Kenrich, U.S. Department of Education, 555 New Jersey Avenue, NW., room 602, Washington, DC 20208-5530. Telephone: (202) 219-2050.

Office of Elementary and Secondary Education: Edna Carter, U.S. Department of Education, 400 Maryland Avenue, SW., room 2181, FOB-6, Washington, DC 20202-6100. Telephone (202) 401-1109.

Office of Postsecondary Education: Carole Kinard, U.S. Department of Education, 400 Maryland Avenue, SW., room 3006, ROB-3, Washington, DC 20202-5172. Telephone: (202) 708-4654.

Office of Special Education and Rehabilitative Services: Michael E. Vader, U.S. Department of Education, 400 Maryland Avenue, SW., room 3006, Switzer Building, Washington, DC 20202-2525. Telephone: (202) 732-1265.

Office of Vocational and Adult Education: Kevin Kelly, U.S. Department of Education, 400 Maryland Avenue, SW., room 4525, Switzer Building, Washington, DC 20202-7120. Telephone: (202) 732-2237.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: September 11, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91-22302 Filed 9-17-91; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
September 18, 1991

Part V

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 83

Procedures for Establishing That an American Indian Group Exists as an Indian Tribe; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

RIN 1076-AC46

Procedures for Establishing That an American Indian Group Exists as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau is proposing to amend and clarify existing regulations on Federal acknowledgment, 25 CFR part 83 in order to eliminate outmoded sections, to improve the system for considering petitions and to guarantee certain independent reconsideration processes for petitioners and other parties. Minor changes are proposed throughout to clarify language in existing provisions. This proposal is being made because following the 1978 publication of the regulations which govern procedures for evaluating petitions from groups seeking acknowledgment as Indian tribes, numerous issues have been raised concerning the interpretation of some of these procedures. This action will clarify the procedures for petitioners, eliminate some of the problems that have arisen that were not covered by the existing regulations, and improve the quality of future petitions.

DATES: Comments must be received on or before December 17, 1991.

ADDRESSES: Comments may be mailed to: Lynn Forcia, Chief, Branch of Acknowledgment and Research, Bureau of Indian Affairs, MS-2614 Main Interior Building, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lynn Forcia, Branch of Acknowledgment and Research, Division of Tribal Government Services, Bureau of Indian Affairs, MS-2614 Main Interior Building, 1849 C Street, NW., Washington, DC 20240, telephone number: (202) 208-3592 (FTS: 268-3592).

SUPPLEMENTARY INFORMATION: Regulations to govern the review of petitions from groups seeking acknowledgment as Indian tribes first became effective October 2, 1978. Initially published as 25 CFR part 54, they were later redesignated without change as 25 CFR part 83. Since the first publication and application of the regulations in 1978, numerous issues have been raised concerning the interpretation of some of the provisions in these regulations. Consequently, several minor deletions and additions have been made throughout these proposed regulations to clarify the meaning of particular passages. In addition, some sections are proposed to be deleted in their entirety, either because time and events have rendered them inappropriate or because provisions have been proposed to replace them. The proposed rule has also added several definitions and clarified existing ones with new language. Although some wording has been added to the criteria in § 83.7 for clarification, the basic criteria for acknowledgment remain unchanged.

The proposed revised regulations are published in their entirety for review and comment by the public. The policy of the Department of the Interior is to afford the public an opportunity to participate in the rule-making process whenever practical. Accordingly, interested persons may submit written comments regarding the proposed rule to the location identified in the **"ADDRESSES"** section of this preamble. Double-spaced copies of the proposed revised regulations with deletions and additions clearly marked for ease of reading are available upon request to the Branch of Acknowledgment and Research at the location noted in the **"ADDRESSES"** section.

The Department of the Interior has determined that this proposed rule-making does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The information collection requirements contained in § 83.7 have been approved by the office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number OMB 1076-0104.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2. This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The primary author of this document is Lynn Forcia, Chief, Branch of Acknowledgment and Research, Bureau of Indian Affairs.

Proposed Revisions

Section 83.1 Definitions

Section 83.1 has been revised to include definitions for nine previously undefined terms: "Board," "Continental United States," "Documented petition," "Interested party," "Previous Federal acknowledgment," "Tribal political influence or other tribal political authority," "Tribal relations," "Tribal roll" and "Undocumented letter petition." Definitions which were previously a part of the regulations and which have been significantly revised to explain precisely the intent of the Department are "Autonomous," "Community," "Continuously," "Historically, historical or history" and "Member of an Indian tribe." The term "Other party" has been deleted and its provisions included in the definition of the term, "Interested party."

The definition of "Autonomous" has been rewritten to add language regarding the exercise of tribal political influence or other tribal political authority. This change more accurately reflects the meaning of the word "autonomous", i.e., self-governing. This self-governing character of an Indian tribe is basic to the Federal Government's acknowledgment that a group maintains a government-to-government relationship with the United States.

A definition for the term "Board" has been added because of the new reconsideration process in § 83.10 involving the Interior Board of Indian Appeals.

The term "Community" has been revised to better reflect the intent of the present regulations, which have often been misinterpreted. In particular, the term "specific area" in the definition in the current regulations has been found to be confusing, since it implies an alternative requirement—some undefined geographic concentration—to providing evidence of the maintenance of significant social relationships between members of a group and their differentiation from nonmembers which is necessary for the group to meet criterion § 83.7(b).

A definition of "Continental United States" has been added to make it clear that the regulations apply to Alaska. Many Federal statutes passed since the Alaska Native Claims Settlement Act (ANCSA) (43 U.S.C. § 1601 *et seq.*) have defined Indian "tribe" to include the corporations established pursuant to ANCSA. Thus, the **Federal Register** list of tribes which are recognized and eligible for services was expanded to include ANCSA corporate entities. See 53 FR 52829, at 52832, December 29, 1988. The ANCSA corporations, while eligible for services as though they were "tribes" because Congress expressly included them in the statutory definition of "tribes," are not tribes in the historical or political senses. Therefore,

the Bureau, in consultation with Indians and Alaska Natives, will review the present Acknowledgment process to determine if a modified process is needed so that Alaska organizations may seek inclusion on the list of entities recognized and eligible for services without using the present Acknowledgment procedure (See 53 FR 52829, at 52833, December 29, 1988). Until that determination is made, and regulations are developed for a modified process, these regulations will continue to apply to Alaska.

Care has been taken to differentiate between an "Undocumented letter petition"—a letter or resolution filed by a group indicating its intention to file a documented petition—and a "Documented petition" in order to cope with an inequitable situation which has developed as a result of groups which filed undocumented letters or resolutions at an early date being given priority of consideration over later filers, even though the latter's documented petitions were complete and received before petitions from the early filers were documented.

The terms "Historically, historical or history" have been redefined to allow a petitioner to establish its continuous existence from first sustained contact with non-Indian society. This will relieve petitioners of the burden of attempting to document existence from initial contact, which may be substantially earlier than sustained contact.

A definition of "Previous Federal acknowledgment" has been added to clarify the meaning of previous Federal recognition of tribal existence or tribal status.

A definition of "Tribal political influence or other tribal political authority" has been added to clarify that the self-governance reflected in the autonomous nature of a group is more than simply a process for group decision making, but also a process which influences or controls the behavior of a group's members and represents the group to outsiders.

Section 83.3 Scope

In § 83.3(a), the term "culturally identifiable" has been deleted because it does not reflect what is required by the criteria.

In § 83.3, paragraphs (b), (c), (d), (e) and (f) have been revised to clarify that already acknowledged tribes, groups formed in recent times, groups which separate from the main body of a currently acknowledged tribe, groups which are subject to congressional legislation terminating or forbidding the Federal relationship, or groups which were previously denied acknowledgment under this part, may not be acknowledged under this part.

Language has been added to § 83.3(d) to clarify the intent of the regulations that groups which may have been or may be regarded by some as part of currently acknowledged tribes may be able to petition under certain circumstances. This is further described in § 83.7(f).

Section 83.3(f) has been added to clarify the position of the Department and the intent of the present regulations regarding the refiling of petitions by groups which have previously filed petitions which have been denied. Once a considerable amount of time and resources have been devoted to evaluating a documented petition, responding to comments submitted to rebut or support a proposed finding and providing an opportunity for reconsideration of the Assistant Secretary's final determination, the decision to acknowledge or decline to acknowledge that an Indian group exits as a tribe is final for the Department. Refiling will be prohibited under these revised regulations.

In order to allow equitably petitioning groups the opportunity to take advantage of the new appeal process and time frames for various stages of the evaluation process, § 83.3(g) has been added to give groups whose petitions are under active consideration on the date that these revised regulations become effective 30 days to choose whether to continue the petitioning process under these revised regulations or the existing regulations as published at 43 FR 39361, September 5, 1978. All other petitioning groups will be considered under the new regulations.

Section 83.4 ("Who may file") and § 83.5 ("Where to file") have been combined and designated § 83.4.

Section 83.5 Duties of the Department

Section 83.6 of the current regulations has been redesignated as § 83.5. Section 83.6(a), of the current regulations, which provides that the Department shall assume the responsibility for notifying unacknowledged Indian groups throughout the United States of the opportunity to petition for Federal acknowledgment under these regulations, has been deleted. The Department, through the staff of the Branch of Acknowledgment and Research, has made extensive efforts since the publication of the regulations in 1978 to contact unacknowledged groups.

Section § 83.6(b) has been redesignated as § 83.5(a) and revised to require the periodic, rather than annual, publication of the list of Indian tribes recognized and receiving services from the Bureau of Indian Affairs, as deemed necessary by the Assistant Secretary. Because few groups are added to this list each year, and because a notice is published in the **Federal Register** each time an Indian tribe is acknowledged, periodic publication of the complete list reduces administrative costs and increases efficiency.

In § 83.6, paragraphs (c) and (d) have been redesignated as paragraphs (b) and (c) and revised to require expanded guidelines for the format and development of documented petitions and to allow these guidelines to be supplemented and updated as necessary. The plan for expanded guidelines is in response to numerous complaints that, because standards of evaluation appear to be inconsistent, and the mandatory criteria are difficult to understand, petitioning groups do not appear to be treated equally. Expanded and updated guidelines will clearly define the criteria, delineate the preferred format of documented petitions and describe the process of evaluating petitions. Several petitioners and researchers have also requested examples of documentation which would meet the criteria, clarification of the requirements and other technical suggestions for the preparation of a petition, all of which will be included in the new guidelines currently being planned by the Bureau.

Section 83.10(d) has been redesignated as § 83.5(d), a more appropriate position in the regulations for this provision.

Section 83.5(e) has been added to require the Assistant Secretary to periodically inquire whether petitioning groups which have submitted a letter or resolution (undocumented letter petition) requesting acknowledgment as an Indian tribe, but have not yet submitted a documented petition, intend to continue the petitioning process.

Section 83.6 General Provisions for Documented Petitions

The introductory paragraph to § 83.7 in the current regulations has been redesignated as a separate section. Section 83.6(a) discusses the format of a documented petition. Section 83.6(b) includes in the revised regulations the requirement detailed in the Bureau's May 16, 1979, policy letter to petitioners that a petition be certified by a group's governing body as the group's official petition. Section 83.6(c) emphasizes the need to respond with detailed evidence to all of the criteria and to read the criteria together with the definitions.

The language in current § 83.7(a) which refers to fluctuations in tribal activity has been placed in § 83.6(d) in order to clarify that it applies to all seven criteria.

Section 83.6(e) has been added in response to suggestions that the Acknowledgment process address the question of previous recognition. The issue is significant, although the Acknowledgment process has proven to be as valid and appropriate for petitioners claiming a past treaty relationship or other past Federal recognition as for those with no past Federal recognition at all. The Acknowledgment process should only determine tribal existence, because such existence, rather than recognition, is the key to exercising rights. Under § 83.6(e), a petitioning group that can prove previous, unambiguous Federal recognition need only demonstrate that it is the same as the tribe previously recognized; that the claimed recognition was a recognition of tribal existence or tribal status, rather than simply some Federal action providing assistance to individuals and families, and that it has maintained itself as a tribe (i.e., meets all the criteria in § 83.7) since the date of the previous Federal recognition.

Section 83.7 Mandatory Criteria for Federal Acknowledgment

Language has been added in § 83.7 (a)(1), (b), (e) and (f) to emphasize the fact that the criteria are applicable to the identification of tribal entities, not individuals.

Paragraphs (a) and (b) in § 83.7 have been revised by replacing the term "statement of facts" with the word "evidence." This has been done for clarity, as these two terms were never considered different and never treated as different in past administrative practice.

In § 83.7, paragraph (b) has been revised to reflect the clarifications made in the definition of "Community" under § 83.1 and specifically states that this criterion must be demonstrated throughout the petitioner's history. Language has also been added to end the misconception of some petitioning groups and their researchers that this criterion is limiting, requiring proof of descent from one particular historical tribe rather than from one tribe or a combination of historical tribes which functioned as a single entity. As in criterion § 83.7(e), descent can be from one historical tribal entity or from two or more historical tribes which combined and functioned as a single autonomous political entity.

In § 83.7, paragraph (c) has been revised to reflect the clarification made in the definition of "Tribal political influence or other tribal political authority."

In § 83.7, paragraph (e) has been revised to signify the need for complete data about known current members. It was initially intended that this information be included when a petition is submitted, and the request for such information has been a part of the guidelines since they were originally issued. The revision also requires elaboration on the circumstances surrounding the background and preparation of former lists of members, which are required to be submitted. The revision includes the requirement detailed in the Bureau's May 16, 1979, policy letter to petitioners that the membership list be certified as the official membership list by the group's governing body. This is a separate certification from the certification required for the documented petition.

In § 83.7, language has been added to paragraph (f) to reflect explicitly the Bureau's intent in the present regulations that groups may be acknowledged under certain specified circumstances even if their membership may have been or may be regarded by some as composed principally of members of federally recognized tribes. However, a group whose members may have appeared on the rolls of, or who have been associated with, an acknowledged North American Indian tribe, must demonstrate its meets all the criteria of having had a distinct and separate historical existence before it can be acknowledged.

Section 83.8 Notice of Receipt of a Petition

Section 83.8(a) has been revised to include language originally in § 83.8(d) to indicate that interested parties to a petition have an opportunity during the Acknowledgment process to submit factual or legal arguments in support of or in opposition to the petition.

Section 83.8(b), concerning actions required for petitions on file prior to the initial publication of the regulations in 1978, is no longer relevant and has been deleted, and § 83.8(c) has been redesignated as § 83.8(b).

Section 83.8(d) has been redesignated as § 83.8(c), and the language pertaining to a petitioner's opportunity to respond to evidence or arguments submitted in support of or in opposition to the petition prior to final determination of the petition's status is included in revised § 83.9(i).

Section 83.9 Processing the Documented Petition

Section 83.9 has been amended so as to apply only to petitions which have completely responded to the criteria in § 83.7, including the submission of documentation which supports the petitioning group's arguments for acknowledgment. Under the current regulations, groups have filed letters petitioning for Federal acknowledgment without documentation or detailed responses to the criteria. Other groups, with later "original filing dates," have more quickly completed the work of preparing the detailed responses and obtaining the needed documentation. This creates the possibility, under the language in the current regulations, that groups filing early, incomplete petitions will claim the right to prior consideration over groups whose complete, documented petitions have been awaiting evaluation for long periods of time. As revised, § 83.9 corrects the potential inequity caused by the wording in the original regulations.

In § 83.9, language has been added to paragraph (b)(1) to emphasize that the preliminary review (sometimes called the "obvious deficiency," or "OD" review) does not constitute the staff's complete review of the petition, which is conducted during active consideration. This rewritten paragraph also includes language allowing active consideration of documented petitions priority over preliminary reviews.

In § 83.9, paragraph (b)(2) has been added to provide for the determination, during the preliminary review, of whether a group claiming previous recognition under § 83.6(e) has provided evidence to sufficiently prove that it is the same as the tribe with previous, unambiguous Federal recognition of tribal existence or tribal status. If sufficient evidence has been provided in the documented petition, the petitioning group need only demonstrate that it has maintained itself as a tribe (i.e., meets all the criteria in § 83.7) since the date of the previous Federal recognition.

In § 83.9, paragraph (c) has been added. In the past, the Acknowledgment staff has attempted to provide for additional review of a petitioner's response to the preliminary review to determine if the petitioner has responded to questions in the preliminary review. However, this "second OD" procedure has been subjected to the criticism that the Acknowledgment staff is never satisfied with the information provided by petitioning groups. This paragraph makes it clear that the petitioning

group's governing body decides whether to submit the information requested in the preliminary review or to request, in writing, that the Assistant Secretary proceed with the active consideration of the documented petition utilizing the materials already submitted. Section 83.9(c)(1), however, provides that a petitioning group which responds to the preliminary review may also request a review of the adequacy of that response. When a preliminary review determines that the claim to previous recognition under § 83.6(d) is not supported by the evidence submitted, § 83.9(c)(2) requires that the petitioner respond to that review. Failure of a petitioner claiming previous Federal recognition to respond to this preliminary review shall cause its documented petition, when it is placed under active consideration, to be evaluated in the same manner as documented petitions from groups which have no claim to previous Federal recognition.

In § 83.9, paragraph (c) has been redesignated as paragraph (d) and has been revised to change the priority of consideration from the date of original filing of undocumented letter petitions to the date documented petitions are determined to be complete and ready for active consideration. The date of original filing will be used in the event that two documented petitions are determined to be ready for active consideration on the same date.

In § 83.9, paragraph (e) has been redesignated as paragraph (g) and revised. In order to increase the amount of staff time available to consider serious applications, this paragraph now requires the completion of a determination once active consideration has begun. Considerable staff time and expense goes into reviewing a petition for obvious deficiencies and discussing the details with the group's researchers. Petitioners, at the time of the obvious deficiencies review, should have a clear understanding of any major problems that are apparent in the petition and how these problems may be corrected. There is ample opportunity to withdraw the petition at that point. Once a petition is placed on active consideration, not only does the staff commit vast amounts of time to evaluate the status of a group and the Department obligate funds for research, travel and sometimes contracting, but also other petitioners are held in abeyance. For a petitioning group to withdraw a petition during active consideration is, therefore, wasteful and inefficient and unfair to other petitioners.

Paragraph (g) in § 83.9 also provides that work on a petition may be suspended for a fixed period or conditionally by the Assistant Secretary at any stage of the process for administrative or technical reasons, temporary closure of a major archival resource, or discover of serious discrepancies in the petition or documentation. If there are such technical or administrative problems with the petition, a petitioner can work through the Assistant Secretary's office to obtain a suspension of active consideration for a specified period of time.

In § 83.9, paragraph (e) has been added to allow the Assistant Secretary to review a documented petition, prior to active consideration, to determine if a petitioning group meets the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7. This will expedite the evaluation of a petition from any group whose documented petition and response to the preliminary review contain little or no evidence establishing that the group descends from a historical tribe or from historical tribes which combined and functioned as a single autonomous political entity, or that the group's membership is principally composed of individuals who are not members of an acknowledged North American Indian tribe, or that the group was not the subject of congressional legislation terminating or forbidding the Federal relationship. If this review shows that the group cannot meet criteria (e), (f) or (g), the Assistant Secretary shall issue a proposed finding to that effect and shall decline to acknowledge that the group is an Indian tribe. This review is intended primarily for those few groups which are clearly not of Indian ancestry. If it is not clear whether a petitioning group can or cannot meet criteria (e), (f) or (g), the full evaluation under all seven mandatory criteria in § 83.7 will be undertaken when the group's documented petition is placed on active consideration.

Section 83.9(g) has been redesignated as § 83.9(i) and revised to allow the Assistant Secretary the discretion to extend the comment period of a proposed finding up to an additional 120 days if so requested by the petitioner or an interested party. Situations have arisen in some cases over the last few years in which petitioners and/or interested parties could not be reasonably expected to gather the necessary materials to comment on a proposed finding within the original 120-day period because of the volume of material considered in the proposed finding. This paragraph also requires interested parties who submit comments, arguments or evidence to the Assistant Secretary to submit copies of their comments directly to the petitioner. This service has been provided by the Acknowledgment staff in the past, but because of time constraints it is no longer possible to do so, and it is properly an obligation of those wishing to comment.

In § 83.9, paragraph (j) has been added. To correct a conflict in the present regulations, which do not provide a timetable for a petitioner to respond to any comments by others on a proposed finding, this provides a petitioner a minimum of 60 days to respond to any comments made on the proposed finding regardless of how late in the comment period the arguments or evidence are received. The Assistant Secretary has the discretion to extend a petitioner's opportunity to respond if such an extension is warranted by the extent and nature of the comments or the timing of the submission of comments by other interested parties.

In § 83.9, paragraph (h) has been redesignated as paragraph (k) and revised. This paragraph retains the 60-day limit provided in the existing regulations for the Assistant Secretary to consider written arguments and evidence submitted to rebut or support a proposed finding and issue a final determination. This time period will not begin automatically at the conclusion of the comment period, however, but shall begin as determined through consultation between the Assistant Secretary, the petitioner and interested parties. It has been the Bureau's experience that petitioning groups and interested parties have frequently requested extensions of the time period within which to submit comments on proposed findings and, as a result, have submitted more extensive arguments and evidence for the Bureau's consideration. Meanwhile, Acknowledgment staff is often committed to other cases while waiting for those comments. Consultation between the Assistant Secretary, the petitioner and interested parties submitting arguments and evidence in response to a proposed finding will enable all parties to determine an equitable timeframe for the consideration of those responses. The Assistant Secretary also has the discretion to extend the period for consideration of comments on a proposed finding. The volume of materials and the complexity of issues involved in the comments that have been received on some proposed findings are greater than was anticipated when the original regulations were drafted, and it has been found that additional time has

been needed to evaluate the comments and prepare final determinations. The effective date of the final determination will be 90 days after publication, rather than 30 days as provided in the present regulations, to bring this paragraph into compliance with the time schedules for appealing determinations as set forth in § 83.10.

In § 83.9, paragraph (i) has been redesignated as paragraph (l).

In § 83.9, paragraph (j) has been redesignated as paragraph (m)(1) and has been revised to clarify language regarding the Assistant Secretary's obligation to inform unsuccessful petitioning groups about alternatives to Federal acknowledgement under these regulations.

Section 83.9(l)(2) has been added to clarify the intent of the regulations. It states that petitioners which have been denied acknowledgement may not re-petition.

Section 83.10 Reconsideration and Final Action

There have been numerous comments by petitioning groups and their attorneys concerning the lack of an appeal of determinations to an independent board of review. Therefore, § 83.10 has been revised to provide for review by the Interior Board of Indian Appeals (IBIA) of certain issues that may be raised by the petitioner or interested parties. Under this revised appeal process, the IBIA has the authority to either affirm the Assistant Secretary's final determination or remand it to the Assistant Secretary for further work and reconsideration.

Section 83.11 Implementation of Decision

Section 83.11(a) has been revised by adding language to clarify that for the purpose of determining benefits, services, powers, limitations, obligations, protection, immunities, and privileges extends to newly-acknowledged tribes, these regulations acknowledge the existence of historic Indian tribes. The mandatory acknowledgment criteria require—as their most primary and essential element—that to be acknowledged a group must have "been identified from historical times until the present" as a tribal entity; that it "has existed as a community from historical times until the present"; that it has maintained tribal political processes "throughout history until the present"; and that its members descend "from a tribal entity which existed historically or from historical tribes which combined." The result of this historical element of these regulations is that a petitioning group of a non-historic nature, e.g., an organized community of Indians, would not be acknowledgeable under these regulations. As only Indian tribes which have this historic character can be acknowledged under these regulations, their status will be considered the same, and they will possess the same inherent attributes of sovereignty, as other historic tribes.

In § 83.11, paragraphs (b) and (c) have been redesignated as paragraphs (c) and (d). A new paragraph (b) has been added to § 83.11 to encourage groups to submit complete and accurate lists of members. There have been instances under the present regulations in which groups have submitted partial or incomplete lists of members. Section 83.11(b) points out that the list of members submitted with the petition will be considered by the Bureau as the complete base roll for Federal funding and other Federal administrative purposes, and requires that additions must be approved by the Assistant Secretary and will be limited to descendants meeting the tribe's criteria.

Section 83.12 Information Collection

This section has been added as a requirement of the Office of Management and Budget.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 25 CFR Part 83

Administrative practice and procedure, Indians—tribal government.

For the reasons set out in the preamble, part 83 title 25, chapter 1 of the Code of Federal Regulations is proposed to be revised as set forth below.

PART 83—PROCEDURES FOR ESTABLISHING THAT AN AMERICAN INDIAN GROUP EXISTS AS AN INDIAN TRIBE

Sec.

83.1 Definitions.
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83.10 Reconsideration and final action.
83.11 Implementation of decisions.
83.12 Information collection.

Authority: 5 U.S.C. 301; secs. 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9; and 230 Department Manual (DM) 1 and 2.

§ 83.1 Definitions.

As used in this part:

Area Office means a Bureau of Indian Affairs Area Office.

Assistant Secretary means the Assistant Secretary—Indian Affairs, or authorized representative.

Autonomous means the exercise of tribal political influence or other tribal political authority independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the Indian culture and social organization of the petitioning group.

Board means the Interior Board of Indian Appeals.

Bureau means the Bureau of Indian Affairs.

Community means any group of people which can demonstrate that there exists sustained interaction and significant social relationships which differentiate members from nonmembers. *Community* must be understood in the context of the history, geography, culture and social organization of the group.

Continental United States means the contiguous 48 states and Alaska.

Continuously or *continuous* means extending from generation to generation from first sustained contact with Europeans throughout the group's history substantially without interruption to the present.

Department means the Department of the Interior.

Documented petition means the detailed, factual exposition and arguments, including all documentary evidence necessary to demonstrate that these arguments specifically address the mandatory criteria (§ 83.7 (a) through (g)), made by a petitioner to substantiate its claim to continuous existence as an Indian tribe.

Historically, historical or *history* means dating from the period of earliest sustained non-Indian settlement and/or governmental presence in the local area in which the historic tribe or tribes from which the petitioner descends was located.

Indian group or *group* means any Indian aggregation within the continental United States that the Secretary of the Interior does not acknowledge to be an Indian tribe.

Indian tribe, also referred to herein as *tribe*, means any Indian tribe, band, pueblo, group or community within the continental United States that the

Secretary of the Interior acknowledges to exist as an Indian tribe.

Indigenous means native to the continental United States in that at least part of the tribe's aboriginal range extended into what is now the continental United States.

Interested party means any person or organization who has requested that they be informed of general actions pursuant to these regulations that are initiated by the Assistant Secretary and/or petitioners, and any person or organization who submits comments or evidence in support of or in opposition to a petitioner's request for acknowledgment as an Indian tribe. Interested party includes the governor and attorney general of the state in which a petitioner is located.

Member of an Indian group means an individual who is recognized by an Indian group as meeting its membership criteria and who consents to being listed as a member of that group.

Member of an Indian tribe means an individual who meets the membership requirements of the tribe as set forth in its governing document or, absent such a document, has been recognized as a member collectively by those persons comprising the tribal governing body; and has continuously maintained tribal relations with the tribe or is listed on the tribal rolls of that tribe as a member, if such rolls are kept.

Petitioner means any entity which has submitted an undocumented letter petition to the Secretary requesting acknowledgment that it is an Indian tribe.

Previous Federal acknowledgment means action by the Federal Government whose character is clearly premised on identification of a tribal political entity and which clearly indicates the recognition of a relationship between that entity and the United States.

Secretary means the Secretary of the Interior or authorized representative.

Tribal political influence or other tribal political authority means a tribal council, leadership, internal process or other mechanism which the group has used as a means of making decisions for the group which substantially affect its members, influence or control the behavior of members in significant respects, and represent the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group.

Tribal relations means participation by an individual in a political and social relationship with a tribal entity.

Tribal roll, for purposes of these regulations, means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document or, in the absence of such document, have been recognized as members by the tribe's governing body, and who have actively consented to being listed as members.

Undocumented letter petition means an undocumented letter or resolution which is produced, dated and signed by the governing body of an Indian group and submitted to the Secretary requesting Federal acknowledgment as an Indian tribe.

§ 83.2 Purpose.

The purpose of this part is to establish a departmental procedure and policy for acknowledging that certain American Indian groups exist as tribes. Such acknowledgment of tribal existence by the Department is a prerequisite to the protection, services, and benefits from the Federal Government available to Indian tribes because of their status as Indian tribes. Such acknowledgment shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship to the United States as well as the responsibilities, powers, limitations and obligations of such tribes. Acknowledgment shall subject the Indian tribe to the same authority of Congress and the United States to which other federally acknowledged tribes are subjected.

§ 83.3 Scope.

(a) This part is intended to cover only those American Indian groups indigenous to the continental United States which are ethnically identifiable, but which are not currently acknowledged as Indian tribes by the Department. It is intended to apply to groups which can establish a substantially continuous tribal existence and which have functioned as autonomous entities throughout history until the present.

(b) Indian tribes, organized bands, pueblos or communities which are already acknowledged as such and are receiving services from the Bureau of Indian Affairs may not be acknowledged under this part.

(c) Associations, organizations, corporations or groups of any character, formed in recent times may not be acknowledged under this part. The fact that a group which meets the criteria in § 83.7 (a) through (g) has recently incorporated or otherwise formalized its existing autonomous process will be viewed as a change in form and have no bearing on the Assistant Secretary's final decision.

(d) Splinter groups, political factions, communities or groups of any character which separate from the main body of a tribe currently acknowledged as being an Indian tribe by the Department may not be acknowledged under this part. However, groups which can clearly be established to have functioned throughout history until the present as an autonomous tribal entity may be acknowledged under this part, even though they have been regarded by some as part of, or have been associated with, an acknowledged North American Indian tribe.

(e) Further, groups which are, or the members of which are, subject to congressional legislation terminating or forbidding the Federal relationship may not be acknowledged under this part.

(f) Finally, groups which have previously petitioned under 25 CFR part 83 (formerly part 54) and which were denied Federal acknowledgment, or reorganized or reconstituted petitioners which were previously denied, or splinter groups, spin-offs, or component groups of any type which were once part of petitioners previously denied, may not be acknowledged under this part.

(g) Indian groups whose documented petitions are under active consideration at the effective date of these revised regulations may choose, within 30 days of the effective date of these regulations, whether to complete their petitioning process under these regulations or the prior regulations in part 83 as published in the Code of Federal Regulations revised as of April 1, 1991.

§ 83.4 Filing an undocumented letter petition.

(a) Any Indian group in the continental United States which believes it should be acknowledged as an Indian tribe, and can satisfy the criteria in § 83.7, may submit an undocumented letter petition requesting that the Secretary acknowledge the group's existence as an Indian tribe.

(b) An undocumented letter petition requesting acknowledgment that an Indian group exists as an Indian tribe shall be filed with the Assistant Secretary—Indian Affairs, Department of the Interior, 1849 C Street NW., Washington, DC 20240. Attention: Branch of Acknowledgment and Research, Mail Stop 2614–MIB.

§ 83.5 Duties of the Department.

(a) The Department shall publish in the **Federal Register**, from time to time as the Assistant Secretary deems necessary, a list of all Indian tribes which are recognized and receiving services from the Bureau of Indian Affairs by virtue of their status as Indian tribes.

(b) Within 180 days from the effective date of these regulations, the Assistant Secretary will have available revised and expanded guidelines for the format of documented petitions, including general suggestions for the format of documented petitions, including general suggestions and guidelines on where and how to research for the required information. The guidelines may be supplemented or updated as necessary. The Department's example of a documented petition format, while preferable, shall not preclude the use of any other format.

(c) The Department shall, upon request, provide suggestions and advice to a petitioner for preparing the documented petition. The Department shall not be responsible for the actual research on behalf of the petitioner.

(d) Any notice which by the terms of these regulations must be published in the **Federal Register**, shall also be mailed to the petitioner, the governor of the state where the group is located and to other interested parties.

(e) After an Indian group has filed an undocumented letter petition requesting Federal acknowledgment as an Indian tribe and until that group has actually submitted a documented petition, the Assistant Secretary may periodically contact the group and request clarification, in writing, of its intent to continue with the petition process.

§ 83.6 General provisions for the documented petition.

(a) The documented petition may be in any readable form which contains comprehensive evidence in support of a request to the Secretary to acknowledge tribal existence.

(b) The documented petition must include a certification, signed by members of the group's governing body, stating that it is the group's official documented petition.

(c) In order for tribal existence to be acknowledged, a petitioner must satisfy all of the criteria in paragraphs (a) through (g) of § 83.7. Therefore, thorough explanations and supporting documentation in response to all of the criteria must be included in the documented petition. The definitions in § 83.1 are an integral part of the regulations, and the criteria should be read carefully together with these definitions. A petitioner may be denied if there is insufficient evidence that the petitioner meets one or more of the seven mandatory criteria or if the evidence available demonstrates that the petitioner does not meet one or more criteria.

(d) Fluctuations in tribal activity during various years shall not be the sole cause for denial of acknowledgment under these criteria.

(e) Unambiguous, previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of such previous acknowledgment. If a petitioner provides substantial evidence of such unambiguous Federal acknowledgment, the petitioner will then only be required to show that it has continued to exist as a tribe from that date forward by providing evidence that it satisfies all of the criteria in § 83.7 from the date of the unambiguous previous acknowledgment to the present. A determination of the adequacy of the evidence of previous Federal action acknowledging tribal status shall be made during the preliminary review of the documented petition conducted pursuant to § 83.9(b).

§ 83.7 Mandatory criteria for Federal acknowledgment.

The mandatory criteria are:

(a) Evidence establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis as an American Indian entity. Evidence to be relied upon in determining the group's substantially continuous Indian identity shall include one or more of the following:

(1) Repeated identification as an Indian entity by Federal authorities;

(2) Long-standing relationships with State governments based on repeated identification of the group as Indian;

(3) Repeated dealings with a county, parish, or other local government in a relationship based on the group's Indian identity;

(4) Repeated identification as an Indian entity by records in courthouses, churches, or schools;

(5) Repeated identification as an Indian entity by anthropologists, historians, or other scholars;

(6) Repeated identification as an Indian entity in newspapers and books;

(7) Repeated identification and dealings as an Indian entity with recognized historical Indian tribes or national Indian organizations.

(b) Evidence that a predominant portion of the petitioning group lives in a community viewed as American Indian and distinct from other populations in the area, that it has existed as a community from historical times until the present and that its members are descendants of an Indian tribal entity which existed historically or from historical tribes which combined.

(c) Evidence establishing that the petitioner has maintained tribal political influence or other tribal political authority over its members as an autonomous entity throughout history until the present.

(d) A copy of the group's present governing document including its membership criteria, or in the absence of a written document, a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.

(e) A list, separately certified by the group's governing body as the group's official membership list, of all known current members of the group including, for each member, full name (including maiden name), date of birth and a current residential address; a copy of each available former list of members based on the group's own defined criteria; and a statement describing the circumstances surrounding the preparation of each list. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descent from a tribal entity which existed historically or from historical tribes which combined and functioned as a single autonomous political entity. Evidence which can be used for this purpose includes but is not limited to:

(1) Rolls prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, or other purposes;

(2) State, Federal, or other official records or evidence identifying present members or ancestors of present members as being Indian descendants and members of the petitioning group;

(3) Church, school, and other similar enrollment records indicating the person as being a member of the petitioning entity;

(4) Affidavits of recognition by tribal elders, leaders, or the tribal governing body, as being an Indian descendant of the tribe and a member of the petitioning entity;

(5) Other records or evidence identifying the person as a member of the petitioning entity.

(f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe; provided, if a group establishes that it has functioned throughout history until the present as a separate and

autonomous Indian tribal entity, that its members do not maintain a bilateral political relationship with the acknowledged tribe, and that is members have provided written confirmation of their membership in the petitioning group, it may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of or who have been otherwise associated with an acknowledged North American Indian tribe.

(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

§ 83.8 Notice of receipt of a petition.

(a) Within 30 days after receiving an undocumented letter petition, or a documented petition if an undocumented letter petition has not previously been received and noticed, the Assistant Secretary shall acknowledge such receipt in writing and shall have published within 60 days in the **Federal Register** a notice of such receipt including the name, location and mailing address of the petitioner and other such information as will identify the entity submitting the undocumented letter petition and the date it was received. This notice shall also serve as a notice of opportunity for interested parties to submit factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment. The notice shall also indicate where a copy of the undocumented letter petition and the documented petition may be examined.

(b) The Assistant Secretary shall also notify, in writing, the governor and attorney general of the state in which a petitioner is located.

(c) The Assistant Secretary shall also publish the notice of receipt of the undocumented letter petition in a major newspaper or newspapers of general circulation in the town or city nearest to the petitioner. The notice will include all of the information in paragraph (a) of this section.

§ 83.9 Processing of the documented petition.

(a) Upon receipt of a documented petition, the Assistant Secretary shall cause a review to be conducted to determine whether the petitioner is entitled to be acknowledged as an Indian tribe. The review shall include consideration of the documented petition and supporting evidence, and the factual statements contained therein. The Assistant Secretary may also initiate other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status, and may consider any evidence which may be submitted by interested parties.

(b) Prior to active consideration of the documented petition, the Assistant Secretary shall notify the petitioner by letter of any obvious deficiencies or significant omissions that are apparent upon a preliminary review and provide the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information or a clarification. (1) This preliminary review does not constitute the Assistant Secretary's review to determine if the petitioner is entitled to be acknowledged as an Indian tribe. It is provided only as technical assistance for the purpose of providing the petitioner an opportunity to supplement or revise the documented petition prior to active consideration. Insofar as possible, preliminary reviews under this paragraph will be conducted in the order of receipt of documented petitions but will not have priority over active consideration of documented petitions.

(2) If a petitioner's documented petition includes evidence of previous Federal acknowledgment, this preliminary review will also include a review to determine whether that evidence is sufficient to require the petitioner to satisfy the mandatory criteria only from the date of that previous acknowledgment to the present.

(c) Petitioners have the option of responding in part or in full to the preliminary review or of requesting, in writing, that the Assistant Secretary proceed with the active consideration of the documented petition using the materials already submitted. (1) If the petitioner requests that the materials submitted in response to the preliminary review be reviewed again as to the adequacy of the response, the Assistant Secretary will provide the additional review. However, this additional review will not be automatic and will be conducted only at the request of the petitioner.

(2) Petitioners claiming previous Federal acknowledgment under § 83.6(d) must respond to the preliminary review if that review determines that the evidence for previous acknowledgment submitted with the documented petition is insufficient to demonstrate that claim by providing further evidence to substantiate that claim. A petitioner claiming previous Federal acknowledgment who fails to respond to a preliminary review under this paragraph shall have its documented petition considered on the same basis as documented petitions submitted by groups not claiming previous Federal acknowledgment.

(d) Documented petitions shall be considered on a first-come, first-served basis determined by the date of the Bureau's notification to the petitioner that it considers the documented petition is ready to be placed on active consideration. The Assistant Secretary shall establish and maintain a numbered register of documented petitions which have been determined ready for active consideration. This register of documented petitions ready for active consideration shall determine the order of consideration based on the date the documented petition was declared ready for active consideration. The Assistant Secretary shall also maintain a numbered register of undocumented, incomplete, or partially completed petitions based on the original date of filing with the Department. In the event that two or more documented petitions are determined ready for active consideration on the same date, the register of incomplete and undocumented letter petitions shall determine the order of consideration by the Assistant Secretary.

(e) Prior to active consideration, the Assistant Secretary shall investigate any petitioner whose documented petition and response to the preliminary review indicate that there is little or no evidence which establishes that the group can meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7. (1) If this review shows that the evidence clearly establishes that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, a full consideration of the documented petition under all seven of the mandatory criteria will not be undertaken pursuant to paragraph (g) of this section, and the Assistant Secretary shall decline to acknowledge that the petitioner is an Indian tribe and publish a proposed finding to that effect in the **Federal Register.** The periods for receipt of comments on the proposed finding from petitioners and interested parties, consideration of comments received, and publication of a final determination regarding the petitioner's status shall follow the timetables established in paragraphs (i) through (l) of this section.

(2) If this review cannot clearly demonstrate that the group does not meet the mandatory criteria in paragraphs (e), (f) or (g) of § 83.7, a full evaluation of the documented petition under all seven of the mandatory criteria shall be undertaken during active consideration of the documented petition pursuant to paragraph (g) of this

section.

(f) The petitioner and interested parties shall be notified when the documented petition comes under active consideration. They shall also be provided with the name of the staff member with primary administrative responsibility for the petitioning group and the name of the staff member's supervisor. Such notice shall include the office address and telephone number of the primary staff member.

(g) Once active consideration of the documented petition has begun, the Assistant Secretary shall continue the review and publish proposed findings and a final determination in the **Federal Register** pursuant to these regulations, notwithstanding any requests by the petitioner or interested parties to cease consideration. The Assistant Secretary has the discretion, however, to suspend, conditionally or for a stated period of time, active consideration of a documented petition upon a showing to the petitioner that there are technical problems with the documented petition or administrative problems which temporarily preclude continuing active consideration. Upon resolution of the technical or administrative problems, the documented petition will have priority on the numbered register of documented petitions insofar as possible. The Assistant Secretary shall notify the petitioner when active consideration of the documented petition is resumed. The timetables in succeeding paragraphs shall begin again upon the resumption of active consideration.

(h) Within one year after notifying the petitioner that active consideration of the documented petition has begun, the Assistant Secretary shall publish proposed findings in the **Federal Register.** The Assistant Secretary has the discretion to extend that period up to an additional 180 days. The petitioner and interested parties shall be notified of the time extension. In addition to the proposed findings, the Assistant Secretary shall prepare a report summarizing the evidence and reasoning for the proposed decision. Copies of such report shall be provided to the petitioner and interested parties and made available to others upon written request.

(i) Upon publication of the proposed findings, the petitioner or any individual or organization wishing to challenge or support the proposed findings shall have 120 days to submit arguments and evidence to the Assistant Secretary to rebut or support the evidence relied upon. The period for comment on a proposed finding may be extended for up to an additional 120 days at the Assistant Secretary's discretion upon a finding of good cause. The petitioner and interested parties shall be notified of the time extension. Those who submit arguments and evidence to the Assistant Secretary must provide copies of their submissions to the petitioner.

(j) The petitioner will have a minimum of 60 days to respond to any submissions by interested parties during the response period. This may be extended at the Assistant Secretary's discretion if warranted by the extent and nature of the comments. The petitioner and interested parties shall be notified by letter of any extension. No further comments from interested parties will be accepted after the end of the regular response period.

(k) At the end of the period for comment on a proposed finding, the Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable timeframe for consideration of written arguments and evidence submitted during the comment period. The petitioner and interested parties shall be notified of the date such consideration begins. After consideration of the written arguments and evidence rebutting or supporting the proposed finding and the petitioner's response to interested parties' comments, the Assistant Secretary shall make a final determination regarding the petitioner's status. A summary of this determination shall be published in the **Federal Register** within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins. The Assistant Secretary has the discretion to extend the period for the preparation of a final determination if warranted by the extent and nature of evidence and arguments received during the response period. The petitioner and interested parties shall be notified of the time extension. The determination will become effective 90 days from publication unless a request for reconsideration is filed pursuant to § 83.10.

(l) The Assistant Secretary shall acknowledge the existence of the petitioner as an Indian tribe when it is determined that the group satisfies all of the criteria in § 83.7.

(m) The Assistant Secretary shall decline to acknowledge that a petitioner is an Indian tribe if it fails to satisfy any one of the criteria in § 83.7. (1) In the event the Assistant Secretary declines to acknowledge that a petitioner is an Indian tribe, the petitioner shall be informed of alternatives, if any, to acknowledgment under these procedures through which the petitioning group may achieve the status of a recognized Indian tribe or through which any of its members may become eligible for services and benefits, as Indians, from the Department, or become members of a recognized Indian tribe.

(2) A petitioner which has petitioned under 25 CFR part 83 (formerly Part 54) and which has been denied Federal acknowledgment may not re-petition under this part, and the determination to decline to acknowledge that the petitioner is an Indian tribe shall be final for the Department. The term "petitioner" here includes previously denied petitioners which have reorganized or been renamed or which are wholly or primarily portions of groups which have previously petitioned and been denied under these regulations.

§ 83.10 Reconsideration and final action.

(a) The Assistant Secretary's decision shall be final for the Department 90 days after publication of the final determination in the **Federal Register** unless a timely request for reconsideration is filed by a petitioner or interested party under this section. (1) Upon publication of the Assistant Secretary's determination in the **Federal Register,** the petitioner or any interested party may file a request for reconsideration with the Secretary.

(i) The petitioner's or interested party's request for reconsideration must be received by the Secretary no later than 90 days after the date of publication of the Assistant Secretary's determination in the **Federal Register.**

(ii) The petitioner's or interested party's request for reconsideration shall contain a detailed statement of the grounds for the request, and shall include any evidence to be considered.

(iii) The party requesting the reconsideration shall mail copies of the request to the petitioner and all other interested parties.

(2) The Secretary shall dismiss a petitioner's or interested party's request for reconsideration that is not timely filed under paragraph (a)(1) of this section.

(3) If a petitioner's or interested party's request for reconsideration is timely, the Secretary shall determine, within 180 days after publication of the Assistant Secretary's final determination in the **Federal Register,** whether the request alleges any of the grounds in paragraphs (c)(1) through (4) of this section and shall notify the parties of his determination.

(4) If the Secretary finds that the petitioner's or interested party's request

does not allege the grounds for reconsideration under paragraphs (c)(1) through (4), and also declines to request reconsideration under paragraph (b), the Assistant Secretary's determination becomes effective and final for the Department 180 days from the publication of the final determination in the **Federal Register.**

(b) If the Secretary determines that a petitioner's or interested party's request for reconsideration alleges a ground for reconsideration other than those in paragraph (c)(1) through (4), the Secretary may, in his discretion, request within 180 days of the publication of the Assistant Secretary's final determination in the **Federal Register** that the Assistant Secretary reconsider the final determination. The Secretary shall notify the petitioner and any interested parties of a request to the Assistant Secretary under this section.

(1) Such a request shall be in addition to any referral to the Interior Board of Indian Appeals under § 89.10(c) and shall be made at the same time as such a referral.

(2) If the Secretary requests the Assistant Secretary to reconsider his determination, the Assistant Secretary shall consult with the Secretary and review the final determination. The Secretary, in considering the Assistant Secretary's decision, may review any information available, whether formally part of the record or not; where reliance is placed on information not of record, such information shall be identified as to source and nature, and inserted in the record.

(c) The Secretary shall refer to the Interior Board of Indian Appeals, pursuant to 43 CFR 330(a)(2), all requests for reconsideration which are timely and allege any of the following:

(1) There is new evidence which could affect the determination;

(2) A substantial portion of the evidence relied upon in the Assistant Secretary's determination was unreliable or was of little probative value;

(3) The petitioner's or the Bureau's research appears inadequate or incomplete in some material respect; or

(4) There are reasonable alternative interpretations, not previously considered, of the evidence used for the final determination, which would substantially affect the determination that the petitioner meets or does not meet one or more of the criteria.

(d) The Interior Board of Indian Appeals shall have administrative authority to review determinations of the Assistant Secretary made pursuant to § 83.9(j) to the extent authorized by this section.

(1) The regulations at 43 CFR 4.310 through 4.318 and 4.331 through 4.340 shall apply to proceedings before the Board except when they are inconsistent with these regulations.

(2) The Board may establish such procedures as it deems appropriate to provide a full and fair evaluation of a request for reconsideration under this section.

(3) The Board may, at its discretion, request comments or technical assistance from the Assistant Secretary concerning the record used for a determination pursuant to § 83.9(j), or the final determination itself.

(4) Pursuant to 43 CFR 4.337(a), the Board may, at its discretion, require a hearing conducted by an administrative law judge of the Office of Hearings and Appeals if the Board determines that further inquiry is necessary to resolve a genuine issue of material fact.

(5) The detailed statement of grounds for reconsideration filed by a petitioner or interested party pursuant to paragraph (a)(1)(ii) of this section shall be considered the appellant's opening brief provided for in 43 CFR 4.311(a). Opposing parties shall have 90 days after receipt of the notice of docketing to file answer briefs with the Board.

(6) An appellant's reply to an opposing party's answer brief, provided for in 43 CFR 4.311(b), shall not apply to proceedings under this section, except that a petitioner shall have 30 days to reply to an answer brief filed by any party which opposes a petitioner's request for reconsideration.

(7) The opportunity for reconsideration of a Board decision provided for in 43 CFR 4.315 shall not apply to proceedings under this section.

(8) For the purposes of review by the Board, the administrative record shall consist of all appropriate documents in the Branch of Acknowledgment and Research relevant to the portions of the determination involved in the request for reconsideration. The Assistant Secretary shall designate and transmit to the Board copies of critical documents central to the portions of the determination under a request for reconsideration. The Branch of Acknowledgment and Research shall retain custody of the remainder of the administrative record, but the Board shall have unrestricted access to it.

(9) The Board shall affirm the Assistant Secretary's determination if the Board finds that the petitioner or interested party has failed to establish at least one of the grounds under paragraphs (c) (1) through (4) by a preponderance of the evidence. The Assistant Secretary's determination will become final and effective upon receipt by the Assistant Secretary of a decision by the Board to affirm the determination, unless a Secretarial request for reconsideration on other grounds has also been made.

(10) The Board shall vacate the Assistant Secretary's determination and remand it to the Assistant Secretary for further work and reconsideration if the Board finds that the petitioner or interested party has established one or more of the grounds under paragraph (c) (1) through (4) by a preponderance of the evidence.

(e) The Assistant Secretary shall issue a reconsidered determination within 120 days of receipt of the Board's decision to remand a determination or the Secretary's request for reconsideration. If the Secretary refers a request for reconsideration to the Board under paragraph (c) and has also requested reconsideration by the Assistant Secretary under paragraph (b), the Assistant Secretary shall not act upon the Secretarial request until the Board's decision to affirm or remand the final determination has been received. Where both a Secretarial request and a referral to the Board have been made, the 120 days for reconsideration by the Assistant Secretary shall be calculated from the later of the dates of receipt of such request or a remand or affirmation by the Board. The Assistant Secretary in his reconsideration shall consider all grounds specified in any Secretarial request or determined to be valid grounds for reconsideration in a remand by the Boards. The reconsidered determination shall be final and effective upon publication in the **Federal Register.**

§ 83.11 Implementation of decisions.

(a) Upon final determination that the petitioner is an Indian tribe, the tribe shall be considered eligible for services and benefits from the Federal Government available to other federally recognized historic tribes and entitled to the privileges and immunities available to other federally recognized historic tribes by virtue of their status as historic Indian tribes with a government-to-government relationship to the United States as well as having the responsibilities and obligations of such tribes. Acknowledgment shall subject such Indian tribes to the same authority of Congress and the United States to which other federally acknowledged tribes are subject.

(b) The list of members submitted as part of a group's documented petition shall be the tribe's complete base roll for purposes of Federal funding and other administrative purposes upon acknowledgment as an Indian tribe. For the purposes of the Bureau, any

additions made to the roll, other than individuals who are descendants of those on the roll and who meet the tribe's membership criteria, shall be limited to those meeting the requirements of § 83.7(e) and maintaining significant social and political ties with the tribe (i.e., maintaining the same relationship with the tribe as those on the list submitted with the group's documented petition).

(c) While the newly acknowledged tribe shall be considered eligible for benefits and services available to federally recognized tribes because of their status as Indian tribes, acknowledgment of tribal existence shall not create immediate access to existing programs. Such programs shall become available when the newly acknowledged tribe meets the specific program requirements, if any, and upon appropriation of funds by Congress. Requests for appropriations shall follow a determination of the needs of the newly acknowledged tribe.

(d) Within six months after acknowledgment that the petitioner exists as an Indian tribe, the appropriate Area Office shall consult and develop in cooperation with the tribe, and forward to the Assistant Secretary, a determination of needs and a recommended budget required to serve the newly acknowledged tribe. The recommended budget will be considered along with other recommendations by the Assistant Secretary in the usual budget-request process.

§ 83.12 Information collection.

(a) The collections of information contained in § 83.7 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0104. The information will be used to verify family relationships and the group's claim that its members are Indian and descend from a historical tribe or tribes which combined, that members are not substantially enrolled in other Indian tribes, and that they have not individually or as a group been terminated or otherwise forbidden the Federal relationship. Response is required to obtain a benefit in accordance with 25 U.S.C. 2.

(b) Public reporting burden for this information is estimated to average 2,632 hours per petition, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Indian Affairs, Mail Stop 337–SIB, 1849 C Street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–22349 Filed 9–17–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
September 18, 1991

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1, 1991.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of September 1, 1991, of 30 rescission proposals and ten deferrals contained in six special messages for FY 1991. These messages were transmitted to Congress on October 4, 1990, January 9, 1991, February 28, 1991, April 16, 1991, June 28, 1991, and July 24, 1991.

Rescissions (Table A and Attachment A)

As of September 1, 1991, 30 rescissions have been proposed totaling $4,859.3 million. Of the total amount proposed for rescission, $4,312.3 million was previously withheld but has been released, and $542.0 million, which has been pending before the Congress for less than 45 days, has not been withheld. A rescission proposal of $5.0 million is currently being withheld.

Deferrals (Table B and Attachment B)

As of September 1, 1991, $3,208.2 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1991.

Information from Special Messages

The special messages containing information on rescissions and deferrals that are covered by this cumulative report are printed in the **Federal Register** cited below:

55 FR 41436, Thursday, October 11, 1990
56 FR 1704, Wednesday, January 16, 1991
56 FR 10082, Friday, March 8, 1991
56 FR 18644, Tuesday, April 23, 1991
56 FR 31516, Wednesday, July 10, 1991
56 FR 36716, Wednesday, July 31, 1991

Richard Darman,

Director.

TABLE A.—STATUS OF FY 1991 RESCISSION PROPOSALS

	Amounts (in millions of dollars)
Rescissions proposed by the President	4,859.3

TABLE A.—STATUS OF FY 1991 RESCISSION PROPOSALS—Continued

	Amounts (in millions of dollars)
Rescission proposals rejected by the Congress	
Rescission proposals for which funding was previously withheld and has been released	−4,312.3
Rescission proposals for which funding is not being withheld	−542.0
Rescission proposals for which funding is currently being withheld	5.0

TABLE B.—STATUS OF FY 1991 DEFERRALS

	Amounts (in millions of dollars)
Deferrals proposed by the President	10,260.8
Routine Executive releases through September 1, 1991 (OMB/Agency releases of $7,099.2 million, partly offset by cumulative positive adjustment of $46.6 million.)	−7,052.6
Overturned by the Congress	
Currently before the Congress	3,208.2

Attachments

BILLING CODE 3110-01-M

ATTACHMENT A
Status of FY 1991 Rescission Proposals
(Amounts in thousands of dollars)

As of September 1, 1991 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Soil Conservation Service								
Watershed and flood prevention operations	R91-1		10,000	02-28-91		10,000	05-07-91	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs	R91-28	115,000 1/		06-28-91				
DEPARTMENT OF DEFENSE								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R91-2		86,000	02-28-91		86,000	05-13-91	
Procurement of ammunition, Army	R91-3		13,000	02-28-91		13,000	05-13-91	
Aircraft procurement, Navy	R91-4		1,093,500	02-28-91		1,093,500	05-13-91	
Weapons procurement, Navy	R91-5		2,600	02-28-91		2,600	05-13-91	
Shipbuilding and conversion, Navy	R91-6		405,000	02-28-91		405,000	05-13-91	
Other procurement, Navy	R91-7		10,000	02-28-91		10,000	05-13-91	
Procurement, Marine Corps	R91-8		2,000	02-28-91		2,000	05-13-91	

1/ Funding is not being withheld.

ATTACHMENT A
Status of FY 1991 Rescission Proposals
(Amounts in thousands of dollars)

As of September 1, 1991 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
Aircraft procurement, Air Force	R91-9		14,200	02-28-91		14,200	05-13-91	
Missile procurement, Air Force	R91-10		74,700	02-28-91		74,700	05-13-91	
Other procurement, Air Force	R91-11		254,200	02-28-91		254,200	05-13-91	
Procurement, Defense Agencies	R91-12		65,303	02-28-91		65,303	05-13-91	
National guard and reserve equipment	R91-13		289,900	02-28-91		289,900	05-13-91	
Research, Development, Test, and Evaluation								
Research, development, test, and evaluation, Army	R91-14		60,800	02-28-91		60,800	05-13-91	
Research, development, test, and evaluation, Navy	R91-15		834,500	02-28-91		834,500	05-13-91	
Research, development, test, and evaluation, Air Force	R91-16		134,100	02-28-91		134,100	05-13-91	
Research, development, test, and evaluation, Defense Agencies	R91-17		29,300	02-28-91		29,300	05-13-91	
	R91-30	5,000 2/		07-24-91				
Military Construction								
Military construction, Navy	R91-18		48,962	02-28-91		48,962	05-13-91	
Military construction, Air Force	R91-19		91,800	02-28-91		91,800	05-13-91	

2/ Funding is currently being withheld.

ATTACHMENT A
Status of FY 1991 Rescission Proposals
(Amounts in thousands of dollars)

As of September 1, 1991 Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Amount Rescinded	Amount Previously Withheld and Made Available	Date Made Available	Congressional Action
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Family Support Administration								
Interim assistance to States for legalization	R91-27		2,400	04-16-91		2,400	05-13-91	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R91-20		500,000	02-28-91		500,000	04-08-91	
	R91-29	427,000 1/		06-28-91				
Congregate services program	R91-21		9,500	02-28-91		9,500	04-09-91	
Nehemiah housing opportunity fund	R91-22		39,112	02-28-91		39,112	04-09-91	
Community Planning and Development								
Urban development action grants	R91-23		13,518	02-28-91		13,518	04-09-91	
Rental rehabilitation grants	R91-24		70,000	02-28-91		70,000	04-09-91	
Urban homesteading	R91-25		13,397	02-28-91		13,397	04-09-91	
Rehabilitation loan fund	R91-26		144,459	02-28-91		144,459	04-08-91	
TOTAL, RESCISSIONS PROPOSED		547,000	4,312,251			4,312,251		

1/ Funding is not being withheld.

ATTACHMENT B

Status of FY 1991 Deferrals – As of September 1, 1991

(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 9-1-91
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D91-1	149,319		10-04-90					
	D91-1A		1,943,510	01-09-91					
	D91-1B		830	02-28-91					
	D91-1C		850,000	06-28-91	2,400,363			5,900	589,196
Foreign military financing	D91-8	4,820,649		01-09-91	4,631,284				189,365
Peacekeeping operations	D91-9	5,177		01-09-91	5,177				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D91-2	135,955		10-04-90					135,955
Cooperative work	D91-3	273,468		10-04-90					
	D91-3A		235,572	01-09-91					509,040
Timber salvage sales	D91-10	103,684		02-28-91					103,684
DEPARTMENT OF DEFENSE – CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D91-4	1,186		10-04-90					186

ATTACHMENT B
Status of FY 1991 Deferrals – As of September 1, 1991
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 9-1-91
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D91-5	7,127		10-04-90					
	D91-5A		190	06-28-91					7,317
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive....	D91-6	14,529		10-04-90					
	D91-6A		44,507	01-09-91					
	D91-6B		68,000		62,348			665	65,353
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D91-7	538,659		10-04-90					
	D91-7A		1,068,473	01-09-91					1,607,132
TOTAL, DEFERRALS.....		6,049,754	4,211,082		7,099,172			46,565	3,208,230

[FR Doc. 91-22389 Filed 9-17-91; 8:45 am]
BILLING CODE 3110-01-C

federal register

Wednesday
September 18, 1991

Part VII

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for MAY 1991

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53143; FRL 3947-5]

Premanufacture Notices; Monthly Status Report for MAY 1991

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for MAY 1991.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPTS-53143)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm L-100, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm EB-44, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during MAY; (b) PMNs received previously and still under review at the end of MAY; (c) PMNs for which the notice review period has ended during MAY; (d) chemical substances for which EPA has received a notice of commencement to manufacture during MAY; and (e) PMNs for which the review period has been suspended. Therefore, the MAY 1991 PMN Status Report is being published.

Dated: September 12, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report for MAY 1991.

I. 244 Premanufacture notices and exemption requests received during the month:

PMN No.

P 91-0843 P 91-0844 P 91-0845 P 91-0846
P 91-0847 P 91-0848 P 91-0849 P 91-0850
P 91-0851 P 91-0852 P 91-0853 P 91-0854
P 91-0855 P 91-0856 P 91-0857 P 91-0858
P 91-0859 P 91-0860 P 91-0861 P 91-0862
P 91-0863 P 91-0864 P 91-0865 P 91-0866
P 91-0867 P 91-0868 P 91-0869 P 91-0870
P 91-0871 P 91-0872 P 91-0873 P 91-0874
P 91-0875 P 91-0876 P 91-0877 P 91-0878
P 91-0879 P 91-0880 P 91-0881 P 91-0882
P 91-0883 P 91-0884 P 91-0885 P 91-0886
P 91-0887 P 91-0888 P 91-0889 P 91-0890
P 91-0891 P 91-0892 P 91-0893 P 91-0894
P 91-0895 P 91-0896 P 91-0897 P 91-0898
P 91-0899 P 91-0900 P 91-0901 P 91-0902
P 91-0903 P 91-0904 P 91-0905 P 91-0906
P 91-0907 P 91-0908 P 91-0909 P 91-0910
P 91-0911 P 91-0912 P 91-0913 P 91-0914
P 91-0915 P 91-0916 P 91-0917 P 91-0918
P 91-0919 P 91-0920 P 91-0921 P 91-0922
P 91-0923 P 91-0924 P 91-0925 P 91-0926
P 91-0927 P 91-0928 P 91-0929 P 91-0930
P 91-0931 P 91-0932 P 91-0933 P 91-0934
P 91-0935 P 91-0936 P 91-0937 P 91-0938
P 91-0939 P 91-0940 P 91-0941 P 91-0942
P 91-0943 P 91-0944 P 91-0945 P 91-0946
P 91-0947 P 91-0948 P 91-0949 P 91-0950
P 91-0951 P 91-0952 P 91-0953 P 91-0954
P 91-0955 P 91-0956 P 91-0957 P 91-0958
P 91-0959 P 91-0960 P 91-0961 P 91-0962
P 91-0963 P 91-0964 P 91-0965 P 91-0966
P 91-0967 P 91-0968 P 91-0969 P 91-0970
P 91-0971 P 91-0972 P 91-0973 P 91-0974
P 91-0975 P 91-0976 P 91-0977 P 91-0978
P 91-0979 P 91-0980 P 91-0981 P 91-0982
P 91-0983 P 91-0984 P 91-0985 P 91-0986
P 91-0987 P 91-0988 P 91-0989 P 91-0990
P 91-0991 P 91-0992 P 91-0993 P 91-0994
P 91-0995 P 91-0996 P 91-0997 P 91-0998
P 91-0999 P 91-1000 P 91-1001 P 91-1002
P 91-1003 P 91-1004 P 91-1005 P 91-1007
P 91-1008 P 91-1009 P 91-1010 P 91-1011
P 91-1012 P 91-1013 P 91-1014 P 91-1015
P 91-1016 P 91-1017 P 91-1018 P 91-1019
P 91-1020 P 91-1021 P 91-1022 P 91-1023
P 91-1024 P 91-1025 P 91-1026 P 91-1027
P 91-1028 P 91-1029 P 91-1030 P 91-1031
P 91-1032 P 91-1033 P 91-1034 P 91-1035
P 91-1036 P 91-1037 P 91-1038 P 91-1039
P 91-1040 P 91-1041 P 91-1042 P 91-1043
P 91-1044 P 91-1045 P 91-1046 P 91-1047
P 91-1048 P 91-1049 P 91-1050 P 91-1051
P 91-1052 P 91-1053 P 91-1054 P 91-1055
P 91-1056 P 91-1057 P 91-1058 P 91-1059
P 91-1060 P 91-1061 P 91-1062 P 91-1063
P 91-1064 P 91-1065 P 91-1066 P 91-1067
P 91-1068 P 91-1069 P 91-1070 P 91-1071
P 91-1072 P 91-1073 P 91-1074 P 91-1075
Y 91-0140 Y 91-0141 Y 91-0142 Y 91-0143
Y 91-0144 Y 91-0145 Y 91-0146 Y 91-0147
Y 91-0148 Y 91-0149 Y 91-0150 Y 91-0151

II. 250 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237 P 84-0660 P 84-0713 P 85-0433
P 85-0619 P 85-1184 P 86-0501 P 86-1607
P 87-0105 P 87-0323 P 87-0502 P 87-1553
P 87-1555 P 87-1872 P 88-0217 P 88-0319
P 88-0320 P 88-0831 P 88-1271 P 88-1272
P 88-1273 P 88-1274 P 88-1460 P 88-1682
P 88-1753 P 88-1761 P 88-1807 P 88-1809
P 88-1811 P 88-1937 P 88-1938 P 88-1980
P 88-1982 P 88-1984 P 88-1985 P 88-1999
P 88-2000 P 88-2001 P 88-2100 P 88-2169
P 88-2196 P 88-2212 P 88-2213 P 88-2228
P 88-2229 P 88-2230 P 88-2236 P 88-2464
P 88-2518 P 88-2529 P 89-0089 P 89-0090
P 89-0091 P 89-0254 P 89-0321 P 89-0385
P 89-0386 P 89-0387 P 89-0396 P 89-0538
P 89-0589 P 89-0721 P 89-0775 P 89-0867
P 89-0957 P 89-0958 P 89-0959 P 89-0963
P 89-0977 P 89-0978 P 89-0979 P 89-0980
P 89-0998 P 89-1038 P 89-1058 P 90-0002
P 90-0009 P 90-0142 P 90-0158 P 90-0159
P 90-0211 P 90-0237 P 90-0248 P 90-0249
P 90-0260 P 90-0261 P 90-0262 P 90-0263
P 90-0347 P 90-0372 P 90-0441 P 90-0550
P 90-0564 P 90-0581 P 90-0603 P 90-0608
P 90-0707 P 90-1280 P 90-1311 P 90-1318
P 90-1319 P 90-1320 P 90-1321 P 90-1322
P 90-1384 P 90-1422 P 90-1464 P 90-1472
P 90-1473 P 90-1511 P 90-1527 P 90-1528
P 90-1529 P 90-1530 P 90-1531 P 90-1555
P 90-1556 P 90-1564 P 90-1592 P 90-1687
P 90-1720 P 90-1721 P 90-1722 P 90-1723
P 90-1728 P 90-1730 P 90-1731 P 90-1732
P 90-1745 P 90-1797 P 90-1809 P 90-1840
P 90-1893 P 90-1937 P 90-1973 P 90-1984
P 90-1985 P 90-2000 P 91-0004 P 91-0043
P 91-0051 P 91-0065 P 91-0074 P 91-0087
P 91-0091 P 91-0100 P 91-0101 P 91-0102
P 91-0107 P 91-0108 P 91-0109 P 91-0110
P 91-0111 P 91-0112 P 91-0113 P 91-0118
P 91-0123 P 91-0124 P 91-0151 P 91-0173
P 91-0174 P 91-0175 P 91-0176 P 91-0177
P 91-0178 P 91-0179 P 91-0180 P 91-0181
P 91-0182 P 91-0183 P 91-0184 P 91-0186
P 91-0187 P 91-0188 P 91-0222 P 91-0228
P 91-0230 P 91-0231 P 91-0232 P 91-0233
P 91-0242 P 91-0243 P 91-0244 P 91-0245
P 91-0246 P 91-0247 P 91-0248 P 91-0252
P 91-0253 P 91-0288 P 91-0328 P 91-0337
P 91-0358 P 91-0363 P 91-0391 P 91-0442
P 91-0451 P 91-0464 P 91-0465 P 91-0466
P 91-0467 P 91-0468 P 91-0469 P 91-0470
P 91-0471 P 91-0472 P 91-0487 P 91-0490
P 91-0501 P 91-0503 P 91-0514 P 91-0519
P 91-0520 P 91-0521 P 91-0525 P 91-0527
P 91-0532 P 91-0541 P 91-0548 P 91-0572
P 91-0584 P 91-0598 P 91-0600 P 91-0602
P 91-0608 P 91-0619 P 91-0627 P 91-0659
P 91-0665 P 91-0666 P 91-0688 P 91-0689
P 91-0700 P 91-0701 P 91-0710 P 91-0716
P 91-0732 P 91-0763 P 91-0774 P 91-0775
P 91-0790 P 91-0809 P 91-0818 P 91-0826
P 91-0827 P 91-0831 P 91-0839 P 91-0840
P 91-0841 P 91-0842

III. 112 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 87-1861 P 87-1882 P 88-0918 P 88-1020
P 88-1021 P 88-1035 P 89-1148 P 90-1830
P 91-0251 P 91-0382 P 91-0396 P 91-0411
P 91-0519 P 91-0520 P 91-0521 P 91-0522
P 91-0523 P 91-0524 P 91-0526 P 91-0528
P 91-0529 P 91-0531 P 91-0533 P 91-0534
P 91-0535 P 91-0536 P 91-0537 P 91-0538
P 91-0539 P 91-0540 P 91-0542 P 91-0543
P 91-0544 P 91-0545 P 91-0546 P 91-0547
P 91-0549 P 91-0550 P 91-0551 P 91-0552
P 91-0553 P 91-0554 P 91-0555 P 91-0556
P 91-0557 P 91-0558 P 91-0559 P 91-0560
P 91-0561 P 91-0562 P 91-0563 P 91-0564
P 91-0565 P 91-0566 P 91-0567 P 91-0569
P 91-0570 P 91-0571 P 91-0573 P 91-0574
P 91-0575 P 91-0576 P 91-0577 P 91-0578
P 91-0579 P 91-0580 P 91-0582 P 91-0583
P 91-0584 P 91-0585 P 91-0586 P 91-0587
P 91-0588 P 91-0589 P 91-0590 P 91-0591
P 91-0592 P 91-0593 P 91-0594 P 91-0595
P 91-0596 P 91-0597 P 91-0599 P 91-0601
P 91-0603 P 91-0604 P 91-0605 P 91-0606
P 91-0607 P 91-0608 P 91-0609 P 91-0610
P 91-0611 P 91-0612 P 91-0613 P 91-0614
P 91-0615 P 91-0616 P 91-0617 P 91-0618
P 91-0620 P 91-0621 Y 91-0134 Y 91-0135
Y 91-0136 Y 91-0137 Y 91-0138 Y 91-0139
Y 91-0140 Y 91-0141 Y 91-0142 Y 91-0143

IV. 113 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 82-0921	G Hydroxynaphthoic acid metal complex	December 15, 1982.
P 84-0995	G Aromatic substituted ammonium sulfimide	February 20, 1991.
P 85-0272	G Substituted aliphatic-terminated poly (dimethylsiloxane)	January 29, 1987.
P 85-0497	2-Hydroxy-3-epsilon lysino propyl trimethyl ammonium chloride derivatized soy protein isolate	May 15, 1991.
P 86-0925	Modified polyvinyl alcohol	August 20, 1988.
P 87-1301	G Polycondensate of formaldehyde with amines	May 17, 1988.
P 87-1337	G Disulfonic acid amine salt	January 22, 1990.
P 87-1340	G Xanthene dye	October 20, 1987.
P 87-1481	G Vinyl acrylic copolymer	April 30, 1991.
P 87-1598	1-Hexadecanaminium, *N,N,N*-trimethyl-, hexa-. mu.-oxotetra-. mu.-3-oxodi-. mu.-5-oxotetradecaoxooctamolybdate (4-) (4:1) (9ci)	April 17, 1991.
P 87-1703	G Salicyclic ammonium salt	April 8, 1988.
P 88-0415	G Salt of substituted naphthalene disulfonic acid	April 11, 1991.
P 88-0841	G Metal complex compound	June 17, 1988.
P 88-1762	G Alkoxylated dialkyl-diethylene triamine, alkyl sulfate salt	April 15, 1991.
P 89-0073	G Urethane acrylate	August 16, 1990.
P 89-0077	G Polyester acrylate	October 15, 1990.
P 89-0325	G Tetraalkyl-tin-trialkoxysilane	April 30, 1991.
P 89-0474	G Amino functional siloxane	April 4, 1991.
P 89-0475	G Amino functional siloxane	April 4, 1991.
P 89-0476	G Amino functional siloxane	April 4, 1991.
P 89-0685	G Organopolysiloxane	April 10, 1991.
P 89-0697	G Alkenoic acid, trisubstituted benzyl-disubstituted-phenyl ester	October 23, 1990.
P 89-0749	G Methacrylated polyurethane prepolymer, methacrylated MDI mixture	June 8, 1990.
P 89-0829	G Metal salt alkylaryl sulfonate	March 2, 1991.
P 90-0145	G Disubstituted phenylaminobenzene azo-substituted phenol compound with ammonia derivative	April 13, 1991.
P 90-0273	G Methacrylate modified methyl methacrylate polymer	November 27, 1990.
P 90-0400	G 1-Butoxyethoxyethoxyethoxy-,1-butoxyethoxyethoxyethylcarbonatomagnesium	April 16, 1991.
P 90-0407	G Ethenyl tris-(1-methylethenyl) oxy)silane	April 10, 1991.
P 90-0620	G Homopolymer of *p*-ethenylphenol acetate plus initiator fragment plus chain transfer fragments	April 9, 1991.
P 90-0623	G Homopolymer of 4-ethenylphenol plus initiator end groups/fragments plus chain transfer end groups/fragments	April 1, 1991.
P 90-0704	G Polyfluoroalkyl polyester	August 5, 1990.
P 90-0705	G Polyhalogenated acrylate	August 5, 1990.
P 90-1003	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 11, 1990.
P 90-1025	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 11, 1990.
P 90-1026	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 11, 1990.
P 90-1027	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 11, 1990.
P 90-1028	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 12, 1990.
P 90-1029	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1030	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990
P 90-1031	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990
P 90-1032	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1033	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990
P 90-1034	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	November 7, 1990.
P 90-1035	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1036	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 11, 1990.
P 90-1037	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1038	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 12, 1990.
P 90-1039	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1040	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 15, 1990.
P 90-1041	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990.
P 90-1042	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990.
P 90-1043	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990.
P 90-1044	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990.
P 90-1045	Acrylic copolymers and salts thereof: styrene/acrylic copolymers and salts threrof	October 10, 1990.
P 90-1273	G Polymethacrylate derivative with tetraethyleneglycol	March 26, 1991.
P 90-1336	G Modified epoxy resin	September 5, 1990.
P 90-1346	G Saturated polyester polyol	April 15, 1991.
P 90-1451	11-Hexadecen-1-ol, acetate, (*z*)-	April 24, 1991.
P 90-1481	G Rosin ester phenolic modified	March 30, 1991.
P 90-1571	G Adipate salt	April 11, 1991.

IV. 113 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 90-1572	G Copolyamide	April 11, 1991
P 90-1626	G Unrefined maleated polypropene	March 12, 1991
P 90-1666	G Metal chloride/methacrylate/organic aluminium complex	March 19, 1991
P 90-1742	G Aliphatic diisocyanate prepolymer	April 15, 1991.
P 90-1898	G Acrylate polymer	April 18, 1991
P 90-1912	G Modified polyacrylamide	May 1, 1991.
P 91-0071	13-Octadecen-1-ol, acetate, (*z*)-	May 3, 1991.
P 91-0076	1,1-Dimethyl-1-(2-hydroxypropyl)amine methacrylimide	April 16, 1991
P 91-0129	G Amylopectin, 2-(heteromonocyclic) ethyl ether	March 18, 1991
P 91-0133	G Alkoxyaminoalkane	April 8, 1991
P 91-0185	3-Cyclopentene-1-acetonitrile, 2,2,3-trimethyl-	March 6, 1991.
P 91-0234	G Polyurethane	April 3, 1991.
P 91-0235	G Polyurethane	April 3, 1991.
P 91-0260	G Amine functional epoxy salt	March 4, 1991.
P 91-0277	G Polyacrylate elastomer	May 6, 1991.
P 91-0289	G Aliphatic polyesterdiol	April 4, 1991.
P 91-0292	G Casein, alkylamine compound	March 13, 1991.
P 91-0296	G Amine salt of acrylic polymer	March 21, 1991.
P 91-0317	G Dimethylpolysiloxane, polyoxyalkylene ether	April 3, 1991.
P 91-0354	G Polyurethane salt	April 2, 1991.
P 91-0355	G Polyurethane	April 2, 1991.
P 91-0359	G Soya linoleic alkyd	March 26, 1991.
P 91-0360	G Acrylated soya linoleic alkyd	March 27, 1991.
P 91-0364	G Polyurethane salt	March 28, 1991.
P 91-0372	G Acrylic copolymers	April 12, 1991.
P 91-0384	G Esterified polyamic acid	April 23, 1991.
P 91-0398	G Alkyloxypropionitrile	April 12, 1991.
P 91-0399	G Alkyloxypropionitrile	April 12, 1991.
P 91-0405	G Aromatic azide	April 11, 1991
P 91-0414	G Alkylated alkyd	April 10, 1991
P 91-0453	G Alkyl ammonium salt of a transition metal halide	April 17, 1991
P 91-0454	G Alkyl ammonium salt of a transition metal halide	April 17, 1991.
Y 85-0079	G Alkyd resin	October 3, 1989.
Y 88-0201	G Alkyd resin	February 12, 1990.
Y 88-0308	G Polyurethane emulsion	April 1, 1991.
Y 91-0001	G Styrene-acrylic polymer	April 23, 1991.
Y 91-0002	G Styrene-acrylic polymer, ammonium salt	April 24, 1991.
Y 91-0003	G Styrene-acrylic polymer, *N,N*-dimethylethanol amines salt	April 24, 1991.
Y 91-0004	G Styrene-acrylic polymer, 2-amino-2-methylpropanol salt	April 24, 1991.
Y 91-0005	G Styrene-acrylic polymer, 2-aminoethanol salt	April 2, 1991.
Y 91-0006	G Styrene-acrylic polymer, sodium salt	April 24, 1991.
Y 91-0039	G Adipic acid polyester	April 9, 1991.
Y 91-0069	G Hydroxy functional acrylic	March 27, 1991.
Y 91-0075	G Alkyd resin, silicon modified	April 2, 1991.
Y 91-0076	G Aromatic polymer acid	April 16, 1991.
Y 91-0081	G Aliphatic polyether urethane	March 19, 1991.
Y 91-0088	1,1'-Methylene-bis(4-isocyanatobenzene), polymer with 1,3-benzenedicarboxylic acid; 1,4-bis(hydroxymethyl)cyclohexane; 2,2-dimethyl-1,3-propandiol; 1,2-ethanediol; 3-hydroxy-2,2-dimethylpropyl..	March 28, 1991.
Y 91-0089	G C_6-C_{18} monobasic acids and C_4-C_{18} dibasic acids esterified with propylene glycol	April 19, 1991.
Y 91-0103	G Aqueous polyurethane dispersion	April 1, 1991.
Y 91-0109	G Aqueous acrylic polymer	April 9, 1991.
Y 91-0110	G Aromatic glyceride polyurethane	March 29, 1991.
Y 91-0128	G Poly(isodecyl acrylate)	April 29, 1991.
Y 91-0133	G Polyisoprene bis-1,4 grafted with methyl methacrylate and styrene	April 30, 1991.

V. 19 Premanufacture notices for which the period has been suspended.

PMN No.

P 91-0186 P 91-0187 P 91-0188 P 91-0222
P 91-0358 P 91-0525P 91-0527 P 91-0530
P 91-0532 P 91-0541 P 91-0548 P 91-0568
P 91-0572 P 91-0581 P 91-0602 P 91-0619
P 91-0657 P 91-0659 Y 91-0137

[FR Doc. 91-22484 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-F

federal register

Wednesday
September 18, 1991

Part VIII

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for JUNE 1991

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53144; FRL 3947-6]

Premanufacture Notices; Monthly Status Report for JUNE 1991

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for JUNE 1991.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPTS-53144)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm L-100, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm EB-44, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during JUNE; (b) PMNs received previously and still under review at the end of JUNE; (c) PMNs for which the notice review period has ended during JUNE; (d) chemical substances for which EPA has received a notice of commencement to manufacture during JUNE; and (e) PMNs for which the review period has been suspended. Therefore, the JUNE 1991 PMN Status Report is being published.

Dated: Septmeber 12, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report for JUNE 1991.

I. 122 Premanufacture notices and exemption requests received during the month:

PMN No.

P 91-1076	P 91-1077	P 91-1078	P 91-1079
P 91-1080	P 91-1081	P 91-1082	P 91-1083
P 91-1084	P 91-1085	P 91-1086	P 91-1087
P 91-1088	P 91-1089	P 91-1090	P 91-1091
P 91-1092	P 91-1093	P 91-1094	P 91-1095
P 91-1096	P 91-1097	P 91-1098	P 91-1099
P 91-1100	P 91-1101	P 91-1102	P 91-1103
P 91-1104	P 91-1105	P 91-1106	P 91-1107
P 91-1108	P 91-1109	P 91-1110	P 91-1111
P 91-1112	P 91-1113	P 91-1114	P 91-1115
P 91-1116	P 91-1117	P 91-1118	P 91-1119
P 91-1120	P 91-1121	P 91-1122	P 91-1123
P 91-1124	P 91-1125	P 91-1126	P 91-1127
P 91-1128	P 91-1129	P 91-1130	P 91-1131
P 91-1132	P 91-1133	P 91-1134	P 91-1135
P 91-1136	P 91-1137	P 91-1138	P 91-1139
P 91-1140	P 91-1141	P 91-1142	P 91-1143
P 91-1144	P 91-1145	P 91-1146	P 91-1147
P 91-1148	P 91-1149	P 91-1150	P 91-1151
P 91-1152	P 91-1153	P 91-1154	P 91-1155
P 91-1156	P 91-1157	P 91-1158	P 91-1159
P 91-1160	P 91-1161	P 91-1162	P 91-1163
P 91-1164	P 91-1165	P 91-1166	P 91-1167
P 91-1168	P 91-1169	P 91-1170	P 91-1171
P 91-1172	P 91-1173	P 91-1174	Y 91-0152
Y 91-0153	Y 91-0154	Y 91-0155	Y 91-0156
Y 91-0157	Y 91-0158	Y 91-0159	Y 91-0160
Y 91-0161	Y 91-0162	Y 91-0163	Y 91-0164
Y 91-0165	Y 91-0166	Y 91-0167	Y 91-0168
Y 91-0169	Y 91-0170	Y 91-0171	Y 91-0172
Y 91-0173	Y 91-0174		

II. 347 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237	P 84-0660	P 84-0713	P 85-0433
P 85-0619	P 85-1184	P 86-0501	P 86-1607
P 87-0105	P 87-0323	P 87-0502	P 87-1553
P 87-1555	P 87-1872	P 88-0217	P 88-0319
P 88-0320	P 88-0831	P 88-1271	P 88-1272
P 88-1273	P 88-1274	P 88-1460	P 88-1682
P 88-1753	P 88-1761	P 88-1807	P 88-1809
P 88-1811	P 88-1937	P 88-1938	P 88-1980
P 88-1982	P 88-1984	P 88-1985	P 88-1999
P 88-2000	P 88-2001	P 88-2100	P 88-2169
P 88-2196	P 88-2212	P 88-2213	P 88-2228
P 88-2229	P 88-2230	P 88-2236	P 88-2484
P 88-2518	P 88-2529	P 89-0089	P 89-0090
P 89-0091	P 89-0254	P 89-0321	P 89-0385
P 89-0386	P 89-0387	P 89-0396	P 89-0538
P 89-0589	P 89-0721	P 89-0775	P 89-0867
P 89-0957	P 89-0958	P 89-0959	P 89-0963
P 89-0977	P 89-0978	P 89-0979	P 89-0980
P 89-0998	P 89-1038	P 89-1058	P 90-0002
P 90-0009	P 90-0142	P 90-0158	P 90-0159
P 90-0211	P 90-0237	P 90-0248	P 90-0249
P 90-0260	P 90-0261	P 90-0262	P 90-0263
P 90-0347	P 90-0372	P 90-0441	P 90-0550
P 90-0564	P 90-0581	P 90-0603	P 90-0608
P 90-0707	P 90-1280	P 90-1311	P 90-1318
P 90-1319	P 90-1320	P 90-1321	P 90-1322
P 90-1384	P 90-1422	P 90-1464	P 90-1472
P 90-1473	P 90-1511	P 90-1527	P 90-1528
P 90-1529	P 90-1530	P 90-1531	P 90-1555
P 90-1556	P 90-1564	P 90-1592	P 90-1687
P 90-1720	P 90-1721	P 90-1722	P 90-1723
P 90-1728	P 90-1730	P 90-1731	P 90-1732
P 90-1745	P 90-1797	P 90-1809	P 90-1840
P 90-1893	P 90-1937	P 90-1973	P 90-1984
P 90-1985	P 90-2000	P 91-0004	P 91-0043
P 91-0051	P 91-0065	P 91-0074	P 91-0087
P 91-0091	P 91-0100	P 91-0101	P 91-0102
P 91-0107	P 91-0108	P 91-0109	P 91-0110
P 91-0111	P 91-0112	P 91-0113	P 91-0118
P 91-0123	P 91-0124	P 91-0151	P 91-0173
P 91-0174	P 91-0175	P 91-0176	P 91-0177
P 91-0178	P 91-0179	P 91-0180	P 91-0181
P 91-0182	P 91-0183	P 91-0184	P 91-0186
P 91-0187	P 91-0188	P 91-0222	P 91-0228
P 91-0230	P 91-0231	P 91-0232	P 91-0233
P 91-0242	P 91-0243	P 91-0244	P 91-0245
P 91-0246	P 91-0247	P 91-0248	P 91-0252
P 91-0253	P 91-0288	P 91-0328	P 91-0337
P 91-0358	P 91-0363	P 91-0391	P 91-0442
P 91-0451	P 91-0464	P 91-0465	P 91-0466
P 91-0467	P 91-0468	P 91-0469	P 91-0470
P 91-0471	P 91-0472	P 91-0487	P 91-0490
P 91-0501	P 91-0503	P 91-0514	P 91-0519
P 91-0520	P 91-0521	P 91-0525	P 91-0527
P 91-0532	P 91-0541	P 91-0548	P 91-0572
P 91-0584	P 91-0598	P 91-0600	P 91-0602
P 91-0608	P 91-0619	P 91-0627	P 91-0659
P 91-0665	P 91-0666	P 91-0688	P 91-0689
P 91-0700	P 91-0701	P 91-0710	P 91-0716
P 91-0732	P 91-0763	P 91-0774	P 91-0775
P 91-0790	P 91-0809	P 91-0818	P 91-0826
P 91-0827	P 91-0831	P 91-0839	P 91-0840
P 91-0841	P 91-0842	P 91-0853	P 91-0854
P 91-0855	P 91-0856	P 91-0857	P 91-0858
P 91-0859	P 91-0860	P 91-0861	P 91-0899
P 91-0902	P 91-0903	P 91-0905	P 91-0912
P 91-0914	P 91-0915	P 91-0934	P 91-0935
P 91-0936	P 91-0937	P 91-0939	P 91-0940
P 91-0941	P 91-0956	P 91-0966	P 91-0968
P 91-0981	P 91-1000	P 91-1007	P 91-1008
P 91-1009	P 91-1010	P 91-1011	P 91-1012
P 91-1013	P 91-1014	P 91-1015	P 91-1016
P 91-1017	P 91-1018	P 91-1019	P 91-1020
P 91-1021	P 91-1022	P 91-1023	P 91-1024
P 91-1025	P 91-1026	P 91-1027	P 91-1028
P 91-1029	P 91-1030	P 91-1031	P 91-1032

P 91-1033 P 91-1034 P 91-1035 P 91-1036
P 91-1037 P 91-1038 P 91-1039 P 91-1040
P 91-1041 P 91-1042 P 91-1043 P 91-1044
P 91-1045 P 91-1046 P 91-1047 P 91-1048
P 91-1049 P 91-1050 P 91-1051 P 91-1052
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P 91-1057 P 91-1058 P 91-1059 P 91-1060
P 91-1061 P 91-1062 P 91-1063 P 91-1064
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III. 148 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the inventory).

PMN No.

P 88-1783 P 88-2210 P 88-2530 P 89-0764
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Y 91-0147 Y 91-0148 Y 91-0149 Y 91-0150
Y 91-0151 Y 91-0152 Y 91-0154 Y 91-0155

IV. 72 Chemical substances for which EPA has received notices of commencement to manufacture.

PMN No.	Identity/Generic Name	Date of Commencement
P 82-0418	G Hydrogen bis-1-(3,5-disubstituted-2-hydroxy phenyl) azo-3-(*n*-monosubstituted)-2-naphthalenolate (2-) chromate (1-)	February 15, 1983.
P 83-0067	G Substituted thionocarbamate	May 21, 1991.
P 87-0244	G Substituted polyacrylate	May 1, 1991.
P 87-1600	G Styrene-acrylate methacrylate polymer	February 20, 1988.
P 88-0184	G 2-Butenedioic acid, dioctyl ester, polymer with vinyl acetate and 2-hydroxypropyl methacrylate	May 11, 1988.
P 88-0384	(E)-2-Butenedioic acid, di-*N*-octyl ester	April 13, 1988.
P 88-1673	G Bis-azotriarylmethane	November 17, 1989.
P 88-1800	G Organopolysiloxane	January 5, 1991.
P 88-2003	Rosin, fumarated, polymer with p-tert-butylphenol, formaldehyde, pentaerythritol and glycerol	June 5, 1991.
P 89-0232	G Brominated aromatic carbonate oligomer	April 30, 1991.
P 89-0686	G Carboxyl modified organopolysiloxane	January 5, 1991.
P 89-0734	G Dimer acids, polymers with ethylenediamine, a dicarboxylic acid, and diamines	May 21, 1991.
P 89-0770	G Oils, glyceridic, palm kernel (or coconut oil), reaction products with tetra-hydroxy branched alkane esters of tri-substituted benzene-propanoic acid..	February 1, 1990.
P 89-0777	G Tall oil fatty acids, reaction products with a polyethylenepolyamine and a modifier	May 21, 1991.
P 89-0949	G Aromatic amidoamine	June 5, 1991.
P 89-0960	G Sulfonamide salt	May 5, 1991.
P 89-1096	G Silicone imide black copolymer	April 22, 1991.
P 90-0221	G Acrylate resin	May 10, 1991.
P 90-0295	G Calcium alkylarylsulfonate	May 1, 1991.
P 90-0364	Tall oil fatty acid ester with polyoxy(1,2-ethanediol)-omega-hydroxy-2,4,6-tris(1-phenyl ethyl) phenol ether	April 1, 1991.
P 90-0384	G Alkyl phosphate ester, alkyl amine salt	June 8, 1990.
P 90-0456	G Alkylated sulfonate, amine salt	December 11, 1990.
P 90-0489	Poly(oxyethylene)(6)carboxylate tridecyl ether, sodium salt	May 30, 1990.
P 90-0668	Reaction products of epoxy phenolic novolac resin, tetrabromobisphenol A, carboxyl-terminated butadiene/acrylonitrile copolymer, methacrylic acid..	May 22, 1991.
P 90-1046	Acrylic copolymers and salts threrof; styrene/acrylic copolymers and salts thereof	October 11, 1990.
P 90-1352	G Modified silicone resin	May 9, 1991.
P 90-1392	G Polyacrylate	May 9, 1991.
P 90-1393	Reaction products of bisphenol A/epichlordrydin based epoxy resin, tetrabromobisphenol A, carboxyl-terminated butadiene/acrylonitrile copolymer, methacrylic acid..	January 7, 1991.
P 90-1498	G Crosslinked acrylic polymer salt	May 31, 1991.
P 90-1531	G Phosphinicocarboxylates, sodium salts	April 30, 1991.
P 90-1642	G Dialkyl phosphoroidithioate phosphate compound	December 27, 1990.
P 90-1643	G Dialkyl phosphorodithioate phosphate compound	December 27, 1990.
P 90-1673	G Hybrid polymer of unsaturated polyester and vinyl ester	January 31, 1991.
P 90-1683	G Modified melamine formaldehyde resin	April 23, 1991.
P 90-1787	G Copolymer of polyester and methylene diphenyl diisocyanate	May 21, 1991.
P 90-1839	G Dialkyldithiophosphoric acid, aliphate amine salt	March 22, 1991.
P 90-1982	G Organic salt	April 24, 1991.
P 90-1983	G Copolyamide	April 24, 1991.
P 90-2003	G Substituted perfluoroalkylsulfonamide	May 6, 1991.
P 91-0012	G Alkali or alkaline earth containing hydrous titanium aluminosilicate molecular sieve	May 3, 1991.
P 91-0088	G Polymeric product of epoxy reaction with organic acid and organic anhydrides	May 24, 1991.
P 91-0144	G Organtion compound	February 12, 1991.
P 91-0249	G Disubstituted thiophenecarbonitrile	May 10, 1991.
P 91-0250	G Disubstituted thiophenecarbonitrile	May 10, 1991.
P 91-0270	G Rubber modified polyphthalamide	May 1, 1991.
P 91-0276	G Polyacrylate elastomer	May 6, 1991.

IV. 72 Chemical substances for which EPA has received notices of commencement to manufacture.—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 91-0278	G Polyacrylate elastomer	May 6, 1991.
P 91-0285	G Carboxylated epoxy cresol novolak acrylate	April 20, 1991.
P 91-0290	Alkali or alkaline earth containing hydrous titanosilicate gel	April 29, 1991.
P 91-0298	G Amine salt of acrylic polymer	April 1, 1991.
P 91-0362	Copolyamide of hexamethylene diamine (a), adipic acid (b), and sebacic acid (c) PA66/610 (ISO 1874-1)	May 1, 1991.
P 91-0367	G Silylpolyalkylene	April 17, 1991.
P 91-0395	G Substituted perfluoroalkenyl ammonium salt	May 21, 1991.
P 91-0410	G Bis(aromatic dicarboxylic acid)	May 6, 1991.
P 91-0426	G Urethane acrylic latex	May 21, 1991.
P 91-0441	G Dimer fatty acids; tetrahydrophthalic anhydride ethylene diamine	May 9, 1991.
P 91-0444	G Anhydride copolymer-methacrylate mixed half ester	April 23, 1991.
P 91-0456	G Substituted polyhydroxy benzene derivative	April 18, 1991.
P 91-0485	G Magnesium substituted hydroxy perchloric carbonatehydrate	May 2, 1991.
P 91-0492	G Asymeteric alkyd ketone	June 3, 1991.
P 91-0504	G 2,5-Dimercapto-1,3,4-thiadiazole reaction product	May 23, 1991.
P 91-0539	G Ethylene interpolymer	May 24, 1991.
P 91-0607	G Heterocyclic amine	May 27, 1991.
Y 87-0181	G Copolyester	May 1, 1991.
Y 87-0244	G Copolyester	May 1, 1991.
Y 90-0209	G Acrylic polymer	April 8, 1991.
Y 90-0289	G Polyester resin	May 28, 1991.
Y 91-0072	G Copolymer of styrene and acrylic esters	May 8, 1991.
Y 91-0107	Cellulose acetate butyrate; succinate anhydride	May 19, 1991.
Y 91-0113	G Copolymer of acrylic and methacrylic esters	May 9, 1991.
Y 91-0116	G Grafted acrylic copolymer	May 9, 1991.
Y 91-0130	G Acrylic acid, acrylate copolymer	April 25, 1991.

V. 18 Premanufacture notices for which the period has been suspended.

PMN No.

P 91-0252 P 91-0253 P 91-0641 P 91-0642
P 91-0643 P 91-0644 P 91-0668 P 91-0688
P 91-0689 P 91-0701 P 91-0718 P 91-0732
P 91-0760 P 91-0778 P 91-0831 P 91-0889
P 91-0981 Y 91-0153

[FR Doc. 91-22485 Filed 9-17-91; 8:45 am]

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federal register

Wednesday
September 18, 1991

Part IX

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Occupational Exposure to Cadmium; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-057a]

RIN 1218-AB16

Occupational Exposure to Cadmium

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of limited reopening of rulemaking record.

SUMMARY: On February 6, 1990, OSHA published its proposed rule to regulate occupational exposure to cadmium (55 FR 4052). Public hearings on the proposal were held in Washington, DC and Denver in June and July 1990. The posthearing comment period closed on October 18, 1990. OSHA now reopens the rulemaking record for 45 days for the limited purpose of receiving the reports of two recent experiments concerning the solubility and carcinogenicity of cadmium sulfide and to invite written comment on the implications of these reports and on the underlying issues of the solubility (including photo-decomposition), bioavailability, toxicity, and carcinogenicity of cadmium sulfide and its relative potency compared to other cadmium compounds. OSHA also invites written comment on other submissions to the record that were made after the close of the posthearing comment period.

DATES: New evidence must be received or postmarked no later than October 18, 1991. Other information and written comments must be received or postmarked no later than November 4, 1991.

ADDRESSES: Information and comments should be sent in quadruplicate to: Docket Office, Docket H-057a, room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments limited to 10 pages or less may also be transmitted by facsimile to: 202-523-5046, provided that the original and four copies of the comment are sent to the Docket Officer immediately thereafter.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, room N3647, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC 20210. Telephone, (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1986, the Health Research Group ("HRG") of Public Citizen, joined by the International Chemical Workers Union ("ICWU"), petitioned the Occupational Safety and Health Administration ("OSHA") to issue an Emergency Temporary Standard ("ETS") for cadmium. On July 1, 1987, OSHA denied the petition for an ETS on the grounds that the record did not support findings that cadmium posed a "grave danger" as defined by the courts. However, at that time the Agency also determined that the current PELs were not sufficiently protective and that the Agency would proceed with a rulemaking under section 6(b) of the Occupational Safety and Health Act to promulgate a permanent rule to reduce occupational exposure to cadmium.

In July of 1989, petitioners, alleging unnecessary delay on OSHA's part, filed a petition for a Writ of Mandamus in the U.S. Court of Appeals for the D.C. Circuit seeking to compel the Agency to issue the proposed and final standards by specified dates. On October 20, 1989, the court ordered the case held in abeyance and ordered OSHA to file a report within three months on the status of the proposed rule and the date by which the Agency expected to issue a final rule. OSHA duly filed its status report, projecting publication of the proposal around the end of January 1990 and publication of the final cadmium rule within 24 months thereafter.

On February 6, 1990 OSHA published its proposed rule to regulate occupational exposure to cadmium (55 FR 4052). Thereafter, on February 12, 1990, the Court of Appeals indicated that it was satisfied with OSHA's compliance to date but noted: (1) That OSHA's projection of 24 months for publishing a final standard exceeded by six months the 18-month period previously projected by the Agency; and (2) that all parties agree that exposure to cadmium poses a serious risk to workers and that OSHA should therefore proceed expeditiously. Consequently, the court ordered that the case continue to be held in abeyance, pending further review, and further ordered OSHA to file with the court, every six months until the final rule is issued, a report indicating the status of the rulemaking and the date by which the Agency expects to issue a final rule.

A public hearing on the proposal was held in Washington, DC on June 5-13, 1990, and in Denver on July 17-19, 1990. A posthearing comment period of 90 days was established by the hearing officer, Administrative Law Judge Julius A. Johnson. On September 18, 1990, SCM Chemicals, Inc., a cadmium pigment manufacturer, moved to extend the posthearing comment period. SCM sought the extension to allow submission to the record of studies that were about to be initiated regarding the possible confounding effect of the alleged photo-decomposition (solubilization) of cadmium sulfide on the results of an important long term inhalation study of rats exposed to cadmium sulfide and other cadmium compounds (Glaser, U., *et al.*, "Carcinogenicity and Toxicity of Four Cadmium Compounds Inhaled by Rats" Toxicological and Environmental Chemistry, Vol. 27, pp. 153-62, 1990). That study by Glaser *et al.* showed cadmium sulfide to be a lung carcinogen of approximately equal potency with other cadmium compounds. The follow-up studies were to test whether the evidence of equal potency might be attributable, in whole or in part, to the existence in the inhaled cadmium sulfide aerosol of cadmium ions that were produced by the prior photo-decomposition of cadmium sulfide in water in the presence of light. The SCM motion was denied by Judge Johnson. The post hearing comment period ended on October 18, 1990.

On April 22, 1991, the Dry Color Manufacturers' Association ("DMCA"), representing cadmium pigment manufacturers and users, filed a motion with Judge Johnson to reopen the hearing to allow cross examination of OSHA witnesses regarding the carcinogenicity of cadmium sulfide in light of the results of the completed follow-up studies, or alternatively to remove cadmium pigments from the current rulemaking. In its opposition to the motion, OSHA indicated that, in the interest of fairness and fully developing the record, the Agency would carry out a limited reopening of the record to allow submission of the results of the follow-up studies and written public comment on the studies and underlying issues. DCMA's motion was denied by the judge on May 13, 1991.

On May 24, 1991, Judge Johnson certified the record for the public hearing as closed. Thereafter, on June 17, 1991, DCMA moved for reconsideration of its previous motion. On July 5, 1991, OSHA denied the motion to reconsider. In its letter of denial, OSHA reiterated that the Agency would reopen the record for the limited purpose of receiving the final reports of the two recent studies and updated assessments by outside OSHA experts of those reports and their implications and to seek public comment on the new

evidence and the underlying issues concerning cadmium sulfide.

OSHA then contracted with one of its experts at the hearing, Dr. G. Obserdorster, who is a co-author of one of the follow-up studies, and with one of the co-authors of the other study, Dr. U. Heinrich, to assess cadmium sulfide's solubility, bioavailability, toxicity, carcinogenicity and potency relative to other cadmium compounds in light of all the evidence, including their studies.

Reopening the Record

In order to complete the rulemaking record regarding the health effects of occupational exposure to cadmium sulfide, OSHA is now reopening the rulemaking record and placing in the record the final reports by Drs. Glaser, *et al.* and Konig *et al.* of the two follow-up solubilization studies (Exs. L-140-44 and L-140-27B, respectively) and the updated assessments by OSHA experts, Drs. Oberdorster and Heinrich (Exs. 141 and 142, respectively). The record is being reopened for the limited purpose of including in it these reports and assessments and seeking written comment from the public and interested parties on these new submissions and, more generally, on the underlying issues of cadmium sulfide's solubility (including photo-decomposition), bioavailability, toxicity, carcinogenicity and potency relative to other cadmium compounds.

Since OSHA is reopening the record, the Agency at this time also will allow public comment on the other evidence and comments that were submitted to the record after it had closed (Exs. L-131 through L-140), which were filed in the rulemaking docket as late comments and were not subject to public comment. Most of these submissions also deal with the cadmium sulfide issue. The remainder deal with a variety of other matters, ranging from concerns about the methodologies relied upon in several epidemiological studies of health effects associated with exposure to cadmium, to updates of documents already in the record, to reference materials for laboratory standardization.

Request for Comments

To complete the rulemaking record on the question of whether cadmium sulfide should be regulated like other cadmium compounds OSHA seeks public comment on: (1) The final 1991 reports by Glasser *et al.* and Konig *et al.* (Exs. L-140-44 and L-140-27B, respectively); (2) the assessments by Drs. Oberdorster and Heinrich (Exs. 141 and 142, respectively); and (3) the underlying issues of cadmium sulfide's solubility (including photo-decomposition), bioavailability, toxicity, carcinogenicity, and potency relative to other cadmium compounds. In addition, as indicated above, OSHA invites public comment on the other submissions to the record previously classified as late.

Evidence or comments already in the record or duplicative of what is already in the record should not be resubmitted. New evidence must be received or postmarked no later than October 18, 1991. Comments must be received or postmarked no later than November 4, 1991. All submissions should be sent in quadruplicate to the Docket Office, Docket H-057a, Occupational Safety and Health Administration, room N2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202-523-7894), where the entire record is available for inspection and copying.

Authority

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1-90 (55 FR 9033) and 29 CFR part 1911.

Signed at Washington, DC, this 12th day of September, 1991.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 91-22398 Filed 9-17-91; 8:45 am]

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