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Wednesday
May 16, 1990

Briefings on How To Use the Federal Register
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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.

WASHINGTON, DC

WHEN: May 24, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202-523-5240.

MINNEAPOLIS, MN

WHEN: June 18, at 1:00 p.m.
WHERE: Bishop Henry Whipple Federal Building, Room 570, Ft. Snelling, MN.
RESERVATIONS: 1-800-366-2998

KANSAS CITY, MO

WHEN: June 19, at 9:00 a.m.
WHERE: Federal Building, 601 East 12th Street, Room 110, Kansas City, MO.
RESERVATIONS: 1-800-735-8004

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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 JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 245

[INS No. 1273-90]

Immigration and Naturalization Service and the Executive Office for Immigration Review; Fee Review

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Discussion of comments to a final rule.

SUMMARY: This document addresses two comments that were inadvertently omitted from a final rule which was Published at 54 FR 47348 on November 14 1989.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Systems Accountant, Resource Management Branch, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, telephone: (202) 633-4705. Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Falls Church, VA 22041, telephone: (703) 766-6470.

SUPPLEMENTARY INFORMATION: The INS and EOIR published a final rule on November 14, 1989, at 54 FR 47348 amending the schedule of fees charged by INS and EOIR for certain processing and adjudication of applications submitted by the public by charging fees for certain special services and benefits which were previously adjudicated free of charge. Two comments received, one from the National Association of Latino Elected and Appointed Officials (NALEO) and one from within the INS, that were inadvertently omitted from consideration prior to the issuance of the November 14, 1989, final rule. The following is a discussion of these comments and the Service's response.

The Commenters felt that the fee increases were unwarranted, and perhaps were not based on cost. The decision to propose and subsequently impose fees for Form I-485A, for filing application by Cuban refugee for permanent residence, Form N-400, for filing application to file petition for naturalization, and Form N-402, for filing application to file naturalization petition on behalf of child, was given long and careful consideration. The Adjudications Branch of INS is no longer a line item on the budget and must be self-sustaining. In order to do this, Adjudications must receive enough monies from its application fees to financially maintain itself. When these applications for special services and benefits were reviewed, it was found that the Service could no longer fiscally allow these to be fee-free applications. Therefore, it was decided that the recipient of these special services and benefits must bear the cost of their desired goal. The INS and EOIR attempted as fairly and accurately as possible to ascertain the cost of providing each special service or benefit and to set the pertinent fee accordingly. To do otherwise would violate the principles of 31 U.S.C. 9701 and OMB Circular A-25, which requires Federal agencies to establish a fee system in which the special service or benefit provided to or for any person be self-sustaining to the fullest extent possible. The fee structure adheres to the cost principle.

One commenter was concerned that the study upon which the fee increases were based was not made available for public inspection and analysis. This is not the case. This study has always been available upon request, pursuant to the Freedom of Information Act, 5 U.S.C. 552. No requests were received.

Further, since the regulations provide for the waiver of a fee when it is shown that the recipient is unable to pay, the new fees do not prohibit or burden applicants on the basis of the inability to pay as comments suggested. Furthermore, several of our fees are at less than full cost recovery recognizing long-standing public policy and interest served by these processes.

After reviewing the comments, it was decided not to change the final rule which was published on November 14, 1989, at 54 FR 47348.

Dated: April 27, 1990.

Gene McNary,
Commissioner, Immigration and Naturalization Service.

[FR Doc. 90-11312 Filed 5-15-90; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 264

[INS No. 1247-90]

RIN 1115-AA39

Applicant Processing for the Legalization Program; Conforming Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule provides for the reporting and recordkeeping requirements for registration of aliens, including applicants for permanent residence under the Legalization Program as authorized by the Immigration Reform and Control Act of 1986 (IRCA). The purpose of this rule is to correct an inadvertent deletion of a portion of 8 CFR 264.1(c). Furthermore, this rule adds the requirement that aliens adjusted from temporary status to permanent resident status pursuant to section 210(a)(2) of the Act file Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551.

EFFECTIVE DATE: This final rule is effective May 16, 1990.

FOR FURTHER INFORMATION CONTACT: Terrance M. O'Reilly, Assistant Commissioner, Legalization, (202) 786-3658.

SUPPLEMENTARY INFORMATION: On December 6, 1989, an interim rule with request for comments was published in the **Federal Register** at 54 FR 50340. The comment period expired on January 5, 1990. No comments were received from the public during the comment period.

This rule provides for the return of an inadvertently omitted portion of § 264.1(c) and makes grammatical and structural changes. The omission occurred when the Service published the October 31, 1988 interim rule (53 FR 43984) concerning Phase II procedures for legalization applicants. Section 264.1(c) is also being amended to require

Special Agricultural Worker (SAW) temporary residents who automatically adjust their status to that of a permanent resident pursuant to section 210(a)(2) of the Act to file Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551.

A portion of the rule that was omitted authorized the collection of a fee for the reissuance of an I-551 based on a name change. The December 6, 1989 interim rule inadvertently provided that an I-90 be filed without fee to change a name or other biographic data. The final rule reinserts this language. The final rule also provides more precise language concerning correcting an incorrect card and name changes.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the definition of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612. The information collection requirements contained in this regulation have been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The Office of Management and Budget control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 264

Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 8 CFR part 264 which was published at 54 FR 50340-50341 on December 6, 1989, is adopted as a final rule with the following changes:

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

1. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301-1305; 66 Stat. 173, 191, 223-225; 71 Stat. 641.

§ 264.1 [Amended].

2. Section 264.1(c)(1)(ii) is amended by adding the phrase "or Form I-586," immediately after "Form I-186,".

3. Section 264.1(c) is amended by removing paragraph (c)(2)(i)(F); redesignating paragraphs (c)(2)(i) (C) through (E) as paragraph (c)(2)(i) (D) through (F); adding a new paragraph (c)(2)(i)(C), and revising the newly redesignated paragraphs (c)(2)(i) (E) and (F) to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(C) To change a name upon request, after registration, by order of any court of competent jurisdiction or by marriage;

* * * * *

(E) To replace evidence of permanent residence issued on alien registration cards predating the use of Forms I-151 and I-551; (F) To correct a card which was issued with an incorrect name or other biographic data;

* * * * *

4. Section 264.1(c)(2)(ii) is amended by changing the reference to paragraph "(c)(2)(i)(C)" to "(c)(2)(i)(D)".

5. Section 264.1(c)(2)(iii)(B) is amended by removing paragraph (D) in the reference and adding paragraph (C).

6. Section 264.1(c)(2)(iii)(D) is amended by removing the term "shall be" immediately after the word "application".

7. Section 264.1(c)(2)(iv)(A) is amended by changing the phrase "place or resident" to "place of residence" in the first sentence.

8. Section 264.1(c)(3)(iii)(C) is amended by changing the reference to paragraph "(c)(2)(i)(D)" to "(c)(3)(i)(C)".

Dated: May 30, 1990.

James A. Puleo,

Acting, Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 90-11313 Filed 5-15-90; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-21]

Special Local Regulations for Marine Events; Harborfest 1990; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.501 for Harborfest 1990, an annual event held in the Waterside area of the Elizabeth River between Norfolk and Portsmouth, Virginia. These special local regulations are needed to control vessel traffic within the immediate vicinity of Waterside due to the confined nature of the waterway and expected vessel congestion during the Harborfest 1990 activities. The effect will be to restrict general navigation in the regulated area for the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective for the following periods:

10 a.m. to 9 p.m., June 1, 1990

8 a.m. to 11 p.m., June 2, 1990

8:30 a.m. to 6:30 p.m., June 3, 1990

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

Norfolk Harborfest, Inc. has submitted an application dated March 28, 1990 to hold Harborfest 1990 on June 1, 2, and 3, 1990, in the Waterside area of the Elizabeth River. This area is covered by 33 CFR 100.501 and generally includes the waters of the Elizabeth River between Town Point Park, Norfolk, Virginia, the mouth of the Eastern Branch of the Elizabeth River, and Hospital Point, Portsmouth, Virginia. Since this event is of the type contemplated by this regulation and the safety of the participants and spectators viewing this event will be enhanced by the implementation of special local regulations for the Elizabeth River, 33 CFR 100.501 will be in effect during Harborfest 1990. Harborfest 1990 will be a three-day event sponsored by Norfolk Harborfest, Inc. The event will consist of a military jet flyover, aerobatic demonstrations, an air/sea rescue demonstration, fireworks, and numerous other water events, to include a parade of sailboats and several boat and raft races. Because commercial vessels will be permitted to transit the regulated area between events, commercial traffic should not be severely disrupted. In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa.

Dated: May 9, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 90-11336 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD1 90-024]

Drawbridge Operation Regulations; Eel Pond Channel, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Town of Falmouth Department of Public Works, the Coast Guard is changing the regulations governing the Eel Pond (Water Street) drawbridge across the Eel Pond Channel, at mile 0.0, at Falmouth, Massachusetts by permitting the number of openings to be limited to the hour and half hour during daylight hours from 15 May through 14 October, and by requiring advance notice all the time on Christmas, New Years, Easter, all Sundays in January and February and year-round during evening hours. This change is being made in an effort to reduce traffic problems during the summer months and to incorporate operating procedures that have been unofficially implemented by the Town of Falmouth. This action should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective June 15, 1990.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, at (212) 668-7170.

SUPPLEMENTARY INFORMATION: On November 30, 1989 the Coast Guard published proposed rules Volume 54 FR 49309 concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated December 8, 1989. Interested persons were given until January 5 and January 16, 1990, respectively to submit comments.

Drafting Information

The drafters of this document are Jose M. Arca, Jr., project officer, and Lt. John B. Gately, project attorney.

Discussion of Comments

Two written comments were received, one favoring and one opposing the proposed regulation. The Coast Guard decided to issue the regulation after considering all comments and available information. The regulation will not be overly restrictive to either the mariner or to vehicular traffic. This change incorporates operating procedures that have already been unofficially implemented by the Town of Falmouth and should result in no significant change to any operations.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this rule is expected to be so minimal that a full regulatory evaluation is unnecessary. This determination is based on the fact that the Town Engineer had contacted the marinas and facilities upstream of the bridge and all indicated no objection. Additionally, marine traffic will still be able to transit the waterway, however, they will have to plan their movements to conform to the opening schedule. Since several companies and facilities have offices on either side of the waterway, it will facilitate pedestrian traffic between offices. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 23, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.598 is added to read as follows:

§ 117.598 Eel Pond Channel.

The following requirements apply to the draw of Eel Pond (Water Street) drawbridge at mile 0.0 at Falmouth, Massachusetts.

(a) The draw shall open at all times as soon as possible for a public vessels of the United States, State or local vessels used for public safety, and vessels in distress. The opening signal for these vessels shall be four or more short blast of a whistle, horn, or radio request.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of section 118.160 of this chapter.

(c) The draw shall operate as follows:

(1) On signal from October 15 through May 14, from 8 a.m. to 5 p.m. except as provided in paragraph (c)(3)(i) of this section.

(2) Need open on signal only on the hour and half hour as follows:

(i) From May 15 through June 14 and from September 16 through October 14, from 7 a.m. to 7 p.m.

(ii) From June 15 through September 15, from 6 a.m. to 9 p.m.

(3) The draw shall open on signal if at least 8 hours advance notice is given:

(i) At all times on Christmas, New Years, Easter and all Sundays in January and February.

(ii) At all other times not stipulated in paragraphs (c)(1) and (c)(2) of this section.

Dated: May 8, 1990.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 90-11337 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Tampa Regulation 90-23]

Safety Zone Regulations; Headwaters of Crystal River in Kings Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone for the headwaters of the Crystal River in Kings Bay, Florida. The zone is needed to protect boaters and their vessels from the safety hazards associated with the anticipated heavy boating traffic in this area during the Memorial Day holiday weekend. Vessels in the area are to proceed at "idle speed" during the holiday weekend.

EFFECTIVE DATE: This regulation becomes effective on Friday 25 May

1990 at 6 p.m. It terminates on Tuesday 29 May 1990 at 6 a.m.

FOR FURTHER INFORMATION CONTACT: LT S.P. Metruck, Coast Guard Marine Safety Office, Tampa, FL at (813) 228-2189.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is required to prevent damage to the vessels involved.

Drafting Information

The drafters of this regulation are LT S.P. Metruck, project officer for the Captain of the Port and LT A. Santos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is required because the Memorial Day holiday weekend traditionally results in an increased amount of boating traffic in the headwaters of the Crystal River in Kings Bay, Florida. In order to decrease the hazard to boaters and their vessels all boaters transiting the zone must proceed at "idle speed." The entrance areas to the zone shall be marked with buoys indicating "No wake—Idle Speed."

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T0723 is added to read as follows:

§ 165.T0723 Safety Zone: Headwaters of Crystal River in Kings Bay, Florida.

(a) *Location.* The following area is a safety zone: The waters of Kings Bay and the connecting tributaries south and west of the points of land at Crystal Shores on the east and Magnolia Shores on the west wherein the Crystal River meets Kings Bay.

(b) *Effective Dates.* This regulation becomes effective on Friday 25 May 1990 at 6 p.m. It terminates on Tuesday 29 May 1990 at 6 a.m.

(c) *Regulations.* (1) In accordance with the general regulations of § 165.23 of this part, all vessels transiting in this zone must proceed at "idle speed".

Dated: April 5, 1990.

H.D. Jacoby,

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

[FR Doc. 90-11338 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Tampa Regulation 90-24]

Safety Zone Regulations: Headwaters of Crystal River in Kings Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone for the headwaters of the Crystal River in Kings Bay, Florida. The zone is needed to protect boaters and their vessels from the safety hazards associated with the anticipated heavy boating traffic in this area during the 4th of July holiday weekend. Vessels in the area are to proceed at "idle speed" during the holiday weekend.

EFFECTIVE DATE: This regulation becomes effective on Saturday 30 June 1990 at Sunrise. It terminates on Sunday 1 July 1990 at Sunset.

FOR FURTHER INFORMATION CONTACT: LT S.P. Metruck, Coast Guard Marine Safety Office, Tampa, FL at (813) 228-2189.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is required to prevent damage to the vessels involved.

Drafting Information

The drafters of this regulation are LT S.P. Metruck, project officer for the Captain of the Port and LT A. Santos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is required because the holiday weekend of the 4th of July traditionally results in an increased amount of boating traffic in the headwaters of the Crystal River in Kings Bay, Florida. In order to decrease the hazard to boaters and their vessels all boats transiting the zone must proceed at "idle speed." The entrance areas to the zone shall be marked with buoys indicating "No wake—Idle Speed."

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T0724 is added as follows:

§ 165.T0724 Safety Zone: Headwaters of Crystal River in Kings Bay, Florida.

(a) *Location.* The following area is a safety zone: The waters of Kings Bay and the connecting tributaries south and west of the points of land at Crystal Shores on the east and Magnolia Shores on the west wherein the Crystal River meets Kings Bay.

(b) *Effective Dates.* This regulation becomes effective on Saturday 30 June 1990 at Sunrise. It terminates on Sunday 1 July 1990 at Sunset.

(c) *Regulations.* (1) In accordance with the general regulations of § 165.23 of this part, all vessels transiting in this zone must proceed at "idle speed".

Dated: April 5, 1990.

H.D. Jacoby,

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

[FR Doc. 90-11339 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Tampa Regulation 90-25]

Safety Zone Regulations: Headwaters of Crystal River in Kings Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone for the headwaters of the Crystal River in Kings Bay, Florida. The zone is needed to protect boaters and their vessels from the safety hazards associated with the anticipated heavy boating traffic in this area during the 4th of July holiday. Vessels in the area are to proceed at "idle speed" during the holiday.

EFFECTIVE DATE: This regulation becomes effective on Tuesday 3 July 1990 at 6 p.m. It terminates on Thursday 5 July 1990 at 6 a.m.

FOR FURTHER INFORMATION CONTACT: LT S.P. Metruck, Coast Guard Marine Safety Office, Tampa, FL at (813) 228-2189.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is required to prevent damage to the vessels involved.

Drafting Information

The drafters of this regulation are LT S.P. Metruck, project officer for the Captain of the Port and LT A. Santos, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is required because the 4th of July holiday traditionally results in an increased amount of boating traffic in the headwaters of the Crystal River in Kings Bay, Florida. In order to decrease the hazard to boaters and their vessels all boats transiting the zone must proceed at "idle speed." The entrance areas to the zone shall be marked with buoys indicating "No wake—Idle Speed."

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165.

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231: 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T0725 is added to read as follows:

§ 165.T0725 Safety Zone: Headwaters of Crystal River in Kings Bay, Florida.

(a) *Location.* The following area is a safety zone: the waters of Kings Bay and the connecting tributaries south and west of the points of land at Crystal Shores on the east and Magnolia Shores on the west wherein the Crystal River meets Kings Bay.

(b) *Effective Dates.* This regulation becomes effective on Tuesday 3 July 1990 at 6 p.m. It terminates on Thursday 5 July 1990 at 6 a.m.

(c) *Regulations.* (1) In accordance with the general regulations of 165.23 of this part, all vessels transiting in this zone must proceed at "idle speed".

Dated: April 5, 1990.

H.D. Jacoby,

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

[FR Doc. 90-11340 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3777-7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking; direct final.

SUMMARY: USEPA is approving a revision to the Illinois State Implementation Plan (SIP) for particulate matter. The revision was necessitated by USEPA's promulgation of new National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}).

The effect of this action is to document that Illinois' committal SIP satisfies USEPA's requirements for PM_{10} for areas designated as Group II (52 FR 29385). The Group II areas committed to by Illinois are in DuPage, Will, Rock Island, Macon, Randolph, and St. Clair Counties.

This action will be effective July 16, 1990 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This action is effective July 16, 1990.

ADDRESSES: Copies of the SIP revision, and other materials relating to this notice, are available at the following addresses. (It is recommended that you telephone Maggie Greene at, (312) 886-6088, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987, USEPA promulgated revised National Ambient Air Quality Standards (NAAQS) for particulate matter. In the section of the **Federal Register** notice (52 FR 24679–82), entitled "Requirements for State Implementation Plans," USEPA set forth its SIP development policy for PM_{10}.[1]

For areas designated as Group II under this policy,[2] the State is required to submit either of the following two type of SIP revisions:

(1) A complete SIP for particulate matter—10 microns and under (PM_{10}) with accompanying modeled attainment demonstration showing attainment and maintenance of the PM_{10} standard within 3 years of the SIP's adoption, or

(2) A "committal" SIP that supplements the existing SIP with enforceable commitments to perform the actions required at 52 FR 24681 for such "committal" SIPs.

On September 28, 1988, Illinois submitted to USEPA a committal SIP for several of the Illinois Group II areas as a revision to its particulate matter SIP. The Group II areas of concern addressed by Illinois are in DuPage, Will, Rock Island, Macon, Randolph, and St. Clair Counties.[3]

II. Evaluation of Committal SIP Required Provisions for Group II Areas

There are five provisions that are required by USEPA for inclusion in every State committal SIP. These provisions commit the State to perform the following activities:

(1) Gather ambient PM_{10} data, at least to an extent consistent with minimum USEPA requirements and guidance.[4]

(2) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available (see Section 2.0 of the PM_{10} SIP Development Guideline) or when data indicating an annual arithmetic mean (AAM) above the level of the annual PM_{10} NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

(4) Within 30 days of the notification referred to in (3) above, or within 37 months of promulgation, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standards, and immediately notify the appropriate Regional Office.

(5) Within 6 months of the notification referred to in (4) above, adopt and submit to USEPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the committal SIP.

Comparison of the State's provisions with the above requirments indicates that no substantial discrepancies, omissions, or shortcomings exist in the Illinois committal SIP.

III. Evaluation of Schedule Milestones

USEPA requires that the committal SIP include enforceable milestones with timely commitment dates, consistent with the State's PM_{10} SIP Development Plan. Illinois has acceptably committed to all required milestones.

IV. USEPA's Conclusion and Final Action

To be approvable, PM_{10} committal SIPs must incorporate all five provisions enumerated at 52 FR 24681 and provide enforceable milestone commitments that ensure program implementation. Because the Illinois proposed committal SIP commits to all of the five requisite provisions and to all enforceable milestones, USEPA is approving the Committal SIP for PM_{10} for the State of Illinois Group II areas in DuPage, Will, Rock Island, Macon, Randolph, and St. Clair Counties.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on July 15, 1990. However, if we receive notice by June 15, 1990, that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. See 47 FR 27073 (June 23, 1982).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in the context of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225).

On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Particulate matter.

Dated: May 4, 1990.

Todd. A. Cayer,

Acting Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois—Subpart O

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.725 is being amended by adding new paragraph (c) to read as follows:

§ 52.725 Control strategy: particulates.

* * * * *

(c) Approval—On September 28, 1988, the State of Illinois submitted a committal SIP for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}) for the Illinois Group II areas of concern in DuPage, Will, Rock Island, Macon, Randolph, and St. Clair Counties. The committal SIP contains all the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM_{10} at 52 FR 24681.

[FR Doc. 90–11329 Filed 5–15–90; 8:45 am]

BILLING CODE 5560-50-M

[1] The primary and secondary particulate matter NAAQS are now violated when either: 1) the expected annual arithmetic mean value of PM_{10} concentrations exceeds 50 micrograms per cubic meter of air (50 $\mu g/m^3$) (the annual standard), or 2) the expected number of days that the PM_{10} concentration exceeds 150 $\mu g/m^3$ is more than one per calendar year (the 24-hour standard).

[2] Group II areas are those areas of a State where USEPA determined that there was between a 20 percent and 95 percent probability that the PM_{10} NAAQS would be violated.

[3] The Group II areas of concern were listed at 52 FR 29385 (August 7, 1987). Although LaSalle was also listed at 52 FR 29385 as a Group II area of concern, it will be subjected to a more thorough Group I type analysis.

[4] Section 58.13 of 40 CFR part 58 requires States within 1 year after the PM_{10} NAAQS are promulgated to begin sampling PM_{10} every day (at least at one site) in areas with a PM_{10} nonattainment probability of 95 percent or greater, and every other day (at least at one site) in areas with a nonattainment probability of between 20 and 95 percent.

40 CFR Part 52

[FRL-3749-8; EPA Docket No. AM054PA]

Approval and Promulgation of Air Quality Implementation Plans Pennsylvania; Revision of Ozone Implementation Plan

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is today approving a revision to Pennsylvania's State Implementation Plan (SIP) for ozone. The revision incorporates reasonably available control technology (RACT) requirements for two sources of volatile organic compounds (VOCs) in accordance with the guidelines set forth in EPA's Control Technology Guidelines (CTG) documents (Group III): "Control of VOC Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins" and "Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry." This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rulemaking will become effective on June 15, 1990.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air, Toxics & Radiation Management Division, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Attn: Rebecca L. Taggart

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, Executive House—2nd & Chestnut Streets, P.O. Box 2357, Harrisburg, Pennsylvania 17120, Attn: Mr. Gary Triplett

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20005

FOR FURTHER INFORMATION CONTACT: Rebecca L. Taggart at the EPA, Region III address given above or at (215) 597-9189.

SUPPLEMENTARY INFORMATION: States are required under sections 172 (a)(2) and (b)(3) of the CAA, and as elaborated in the April 4, 1979 "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" (44 FR 20372), to revise their ozone State Implementation Plans (SIPs) to include reasonably available control technology (RACT) regulations for stationary sources in accordance with applicable Control Technology Guideline (CTG) documents published by EPA.

In November 1983, EPA published a CTG document titled "Control of VOC Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins." In December 1984, EPA published an additional CTG document relating to VOC sources titled "Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry."

In response to the requirements of sections 172 (a)(2) and (b)(3), the Pennsylvania Department of Environmental Resources (PADER) submitted a draft ozone SIP revision to EPA on February 14, 1986, which incorporated the recommendations made in these two CTG documents. PADER subsequently submitted a formal SIP revision for EPA approval on January 14, 1987.

PADER has requested that the Pennsylvania SIP incorporate the "plan approvals" and operating permits applicable to the individual sources covered by the two CTGs. Pennsylvania has chosen not to adopt statewide regulations because so few sources are affected. There is only one source in the state covered by the polymer resin CTG—ARCO's Monaca, Beaver County, polystyrene plant. According to Pennsylvania, there are only two sources in the State covered by the air oxidation CTG. This revision will regulate only IMC's Seiple, Lehigh County, formaldehyde plant. The other source, the Allied-Signal Frankford facility, located in Philadelphia, is the subject of RACT regulations which are being adopted by the City of Philadelphia and will be submitted to EPA by Pennsylvania as a separate SIP revision.

The ARCO permit conditions (permit No. 04-313-052) stipulate that the VOC emissions from each bulk polymerization process will not exceed 0.12 pounds per 1000 pounds polystyrene produced. This permit condition is exactly the same as the emission limitation described as representative of RACT for polystyrene plants in the CTG. The permit further stipulates that the expiration date on the permit is for state purposes only, and that the permit conditions will remain in effect as part of the SIP until such a time as EPA approves a repeal of the SIP provision. The PADER "plan approval" relating to the ARCO facility contains specific mechanisms by which ARCO is required to meet the applicable emission limitation, including a provision that daily records of the collection vessel temperature and the vacuum system pressure be kept for two years. The permit, therefore, together with the plan approval, satisfies all RACT requirements for this facility.

The air oxidation processes CTG defines RACT as 98 percent reduction by weight in total organic compound emissions, or as a 20 parts per million emission limit, whichever is less stringent. The CTG further recommends, however, that facilities with existing combustion devices be recognized as RACT until such a time as the existing device is replaced for other reasons. This "grandfathering" recommendation applies to IMC's formaldehyde plant, which currently employs a catalytic incinerator with an estimated 90-95% efficiency. The IMC plant will therefore be allowed to operate with the existing combustion device until the catalytic incinerator is replaced. This SIP revision consists of the PADER "plan approval" applicable to this facility and PADER's permit No. 39-313-014, which together require the operation of the incinerator. At the time of replacement, PADER will submit a revised operating permit incorporating RACT to EPA for processing as a SIP revision. IMC is subject to recordkeeping requirements, which provide for records to be kept for two years of the gas stream temperature.

Public Comments

EPA proposed to approve the SIP revisions described above on September 8, 1988 (53 FR 34780). As a result of the proposal Notice, public comments were received from Allied-Signal's Frankford plant in Philadelphia on the SOCMI Air Oxidation portion of the Notice. A discussion of those comments follows:

1. *Comment:* The proposed SIP revision does not include language from the CTG, which states that RACT may be met by maintaining a Total Resource Effectiveness (TRE) greater than 1.0.

Response: The air oxidation SIP revision discussed in this notice consists of a source-specific permit. Apparently, the source did not request a permit for compliance by maintaining a TRE level greater than 1.0, and that provision was therefore not included.

2. *Comment:* EPA should recognize that Allied-Signal's Frankford plant is meeting the RACT requirements by maintaining a TRE greater than 1.0.

Response: The action in today's notice does not apply to Allied-Signal's facility. Philadelphia is developing SOCMI Air Oxidation regulations which will apply specifically to this facility. EPA will take action on those regulations when they are formally submitted as a SIP revision.

Final Action

EPA is today approving the ozone SIP revision submitted on January 14, 1987 by the Pennsylvania Department of Environmental Resources imposing RACT on ARCO's Monaca plant and IMC's Allentown plant. Specifically, EPA is approving permits No. 04-313-052 and No. 39-313-014, and incorporating them by reference into the Pennsylvania SIP for the specific air oxidation and high-density resin facilities identified herein. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors, and in relation to relevent statutory and regulatory requirements.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 1, 1990.

Stanley L. Laskowski,

Acting Regional Administrator.

40 CFR part 52, subpart NN, is amended as follows:

PART 52—[AMENDED]

Subpart NN—Pennsylvania

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2020 is amended by adding paragraphs (c)(71) and (72) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(71) The permit incorporating polymer resin processes RACT requirements for ARCO's Monaca plant, submitted by acting DER Secretary John Krill on January 14, 1987.

(i) Incorporation by reference.

(A) The entire permit (No. 04-313-052) and plan approval; issued and effective December 9, 1986.

(72) The permit incorporating SOCMI air oxidation RACT requirements for IMC's Allentown plant, submitted by acting DER Secretary John Krill on January 14, 1987.

(i) Incorporation by reference

(A) The entire permit (No. 39-313-014) and plan approval; issued and effective December 10, 1986.

[FR Doc. 90-11328 Filed 5-15-90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[KY-063; FRL-3761-9]

Approval and Promulgation of Implementation Plans, Kentucky; Approval of Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky for the Air Pollution Control District of Jefferson County (District). The SIP revision would provide for the Alcan Foil Products (Alcan) facility located in Louisville, Kentucky, (Jefferson County) to achieve compliance with the applicable volatile organic compound (VOC) reasonably available control technology (RACT) regulations by averaging or "bubbling" of emissions within the facility. The bubble is consistent with current Agency Policy.

EFFECTIVE DATE: This rule will become effective on June 15, 1990.

ADDRESSES: Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365

Division of Air Quality, Natural Resources and Environmental Protection Cabinet, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601

Jefferson County Air Pollution Control District, 850 Barrett Avenue, Louisville, Kentucky 40204-1745

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kay Prince of the EPA Region IV Air Programs Branch at 404-347-2864 (FTS-257-2864) and at the above address.

SUPPLEMENTARY INFORMATION: On January 29, 1990 (55 FR 2842), EPA published a Notice of Proposed Rulemaking (NPR) for the Alcan facility located in Louisville, Kentucky. The facility contains ten rotogravure printing/coating machines which are capable of performing either coating or rotogravure printing on aluminum foil. Such operations are generally covered by the papercoating and the graphic arts control technology guideline (CTG) documents, respectively. EPA policy mandates, however, that where both coating and printing are performed on the same machine, the graphic arts CTG shall apply. Therefore, each unit was determined to be subject to District Regulation 6.29, "Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography." The graphic arts RACT regulation required a 65 percent reduction in VOC emissions for each rotogravure printing line. Water-borne coatings/inks with a volatile portion of at least 75 volume percent water and 25 volume percent or less organic solvent and high solids coatings/inks (at least 60% solids) are exempt from the provisions of Regulation 6.29. The RACT-allowable baseline emissions for those coatings/inks which could not be classified as either water-borne or high solids were calculated using a 65% reduction of emissions. The revisions and the rationale for EPA's proposed approval were explained in the NPR. All of the details will not be restated here since this final SIP revision does not differ from the submittal on July 28, 1989. No public comments were received on the NPR. The following discussion will however, serve to clarify the use of the purchased credit.

The SIP revision allows Alcan to average or "bubble" VOC emissions from nine of the ten machines in lieu of achieving compliance with the graphic arts RACT regulation on a line-by-line basis. Specifically, the proposed bubble provided for demonstration of compliance by: (1) Utilizing a daily averaging period with a cap of 452 lbs of VOC per day; (2) taking credit for reductions in emissions due to air recirculation on Machine #16 (should retesting show that such a reduction is actually occurring) and complying coatings for which use was begun after the baseline period; (3) using 210.6 tons of purchased emission reduction credits (ERCs) prorated to a daily credit; and (4) limiting the total yearly emissions to 266 tons per year. Alcan purchased a credit of 265.7 tons per year from Federal Paper Board Company. This credit has been reduced by 20% because Louisville is a nonattainment area lacking an attainment demonstration and by 3.4

tons per year to account for makeup solvent usage. The resulting credit is 210.6 tons per year of VOC emissions. Federal Paper Board Company was permanently shutdown on November 25, 1985. This shutdown occurred during the baseline period of July 1985 to July 1987. Federal Paper Board Company submitted a request to bank the emissions due to the shutdown on November 4, 1985, prior to the permanent shutdown. The District issued a banking certificate to Federal Paper Board on November 25, 1985. The Federal Paper Board emissions have been treated as "in the air" for planning purposes and this credit has not been used for any other purpose.

Action

EPA is today approving this revision to the Jefferson County portion of the Kentucky SIP.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. section 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation plan for the State of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 18, 1990.

Joe R. Franzmathes,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920, paragraph (c) is amended by adding paragraph (67) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(67) Operating permits for nine presses at the Alcan Foil Products facility located in Louisville were submitted to EPA on July 28, 1989 by the Commonwealth of Kentucky.

(i) *Incorporation by reference.* (A) Alcan Foil Products operating permit numbers 103–74, 104–74, 105–74, 106–74, 110–74, and 111–74 which became State-effective on February 28, 1990.

(ii) Other material.

(A) Letter of July 28, 1989, from the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet.

[FR Doc. 90–11342 Filed 5–15–90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3764-5; AM061MD]

Approval of Revisions to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On August 20, 1984, the Maryland Air Management Administration (MAMA) submitted a revision to the Maryland State Implementation Plan (SIP) in the form of a Secretarial Order (by Consent) for the American Cyanamid Company. The Order provides the Company with a Plan for Compliance (PFC) and an alternative method of assessing compliance for certain installations located at the plant by allowing the averaging or "bubbling" of volatile organic compound (VOC) emissions over a 24-hour period. This was originally proposed on November 20, 1984 (49 FR 45764). On October 16, 1989, EPA reproposed approval of this bubble because American Cyanamid is located in the Metropolitan Baltimore ozone nonattainment area which received a finding of SIP inadequacy on May 26, 1988. EPA believed that the circumstances surrounding the original proposal changed significantly enough to warrant a reproposal on October 16, 1989 (54 FR 42309).

EPA is, today, approving the bubbling of emissions at American Cyanamid located in Havre de Grace, Maryland because it is consistent with the requirements of section 110(a)(2) of the Clean Air Act (the Act), 40 CFR part 51, and EPA policy interpreting the Act.

EFFECTIVE DATE: June 15, 1990.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air, Toxics, and Radiation Management Division, 841 Chestnut Building, Philadelphia, PA 19107. Attn: David L. Arnold.

Maryland Department of the Environment, Air Management Administration, 2500 Broening Highway, Baltimore, MD 21224. Attn: George P. Ferreri.

Public Information Reference Unit, U.S. Environmental Protection Agency, EPA Library, room 2922, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl at (215) 597–9337 or at the EPA Region III address indicated above. The commercial and FTS numbers are the same.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1984, the Maryland Air Management Administration (MAMA) submitted a Secretarial Order to EPA which would allow the American Cyanamid Company (the Company) to bubble VOC emissions at its paper and fabric adhesive plant located in Havre de Grace, Maryland, which is part of the Metropolitan Baltimore ozone nonattainment area. Bubbling emissions (also known as emission trading) allows a source to over control emissions at some points and under control at other points such that the overall emissions are the same as would be achieved utilizing traditional control strategies at each point. This area was designated as an extension/nonattainment area for ozone, and therefore, the ambient ozone standard was to be achieved by December 31, 1987, according to the approved ozone attainment plan required by part D of the Clean Air Act.

The installations at the Havre de Grace plant include paper and fabric adhesive coating towers, adhesive mixing facilities, a honeycomb core print line, and a corrugating line. The paper and fabric adhesive coating operation consists of towers #2, #3, and #5 and the FM-1000 coater/dryer, all of which are subject to the requirements of the Code of Maryland Regulations (COMAR) 10.18.21.07 Paper, Fabric and Vinyl Coating.

Description of Plan

The State Secretarial Order will provide a new plan for compliance (PFC) and an alternate method of assessing compliance under COMAR 10.18.21.02 C(1), which is part of the federally approved SIP. This alternate PFC, as described in the November 20, 1984 proposed rulemaking notice (49 FR 45764), would allow the Company to bubble its VOC emissions over a 24-hour period from towers #2, #3, and #5, and the FM-1000 coater/dryer to achieve compliance. The details of the PFC can be found in EPA's notices of proposed rulemaking (NPRs) published on November 20, 1984 and October 16, 1989, as referenced above.

On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement (ETPS) entitled "Emission Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits." The April 7, 1982, **Federal Register** Notice indicated that until EPA takes final action on its policy statement, State actions would be evaluated under the provisions of the proposed policy statement.

On December 4, 1986, EPA finalized its emissions trading policy (51 FR 43814). The State, however, submitted this bubble to EPA before this final policy was published. Therefore, EPA considers this bubble to be a "pending bubble" under the Final ETPS, 51 FR 43840 col. 2. At the time of the State's submittal, the area was not in attainment of the ozone NAAQS. EPA had, however, approved the SIP for the area, including the attainment demonstration, which provided for attainment by December 31, 1987. Thus, at that time, the area was considered a nonattainment area with an approved demonstration ("NAWAD") for purposes of applying the Final ETPS. Under the Final ETPS, a bubble in a NAWAD is approvable if the baseline is consistent with the assumptions used in the approved SIP, and the bubble does not interfere with attainment of the ozone NAAQS.

The pending bubble requirements of the Final ETPS contemplate a bubble submitted by the State before publication of the Final ETPS, at a time when the area is a NAWAD, with no EPA action on the bubble by the date of publication of the Final ETPS. These pending bubble requirements do not explicitly contemplate the circumstances of this bubble, which was submitted by the State before publication of the Final ETPS, at a time when the area was a NAWAD, but the area then received a SIP call that converted it to a nonattainment area lacking an approved demonstration (NALAD), before EPA acted on the bubble.

EPA has determined that different requirements should apply to a pending bubble in a SIP call area, such as this one. This area, until the SIP call, was classified nonattainment for ozone but had an approved demonstration of attainment. EPA does not believe that bubbles in these areas should be required to use a lower of actual, SIP-allowable, or RACT-allowable baseline; rather, the bubble may continue to use the baseline that is consistent with the assumptions in the original attainment demonstration. Nor is the bubble required to show any reduction in emissions beyond the baseline. EPA does, however, believe that the State should provide the State assurances, required for bubbles in nonattainment areas lacking approved demonstrations which are identified in the Final ETPS. Specifically, the State must make the following representations to EPA:

(1) The bubble emission limits will be included in any new SIP and associated control strategy demonstration.

(2) The state or local agency's ability to obtain any additional emission reductions needed to expeditiously attain and maintain ambient air quality standards is not compromised and the source may be revisited for additional emission reductions.

(3) The State or local agency is making reasonable efforts to develop a complete approvable SIP and provides EPA a schedule for such development (including dates for completion of emissions inventory and subsequent increments of progress).

EPA believes that if the State adequately makes these representations, EPA will be able to approve this bubble on grounds that it does not interfere with attainment and maintenance of the ozone NAAQS, in accordance with the Clean Air Act section 110(a)(2). On September 13, 1988, Maryland submitted these assurances to EPA.

Response to Public Comments

As previously stated, EPA published its NPR for the American Cyanamid bubble in the **Federal Register** on November 20, 1984 (49 FR 45764). Comments were received from the Natural Resources Defense Council, Inc. (NRDC), regarding the proposal. The NPR contained a typographical error under the heading labeled "EPA Evaluation." The third paragraph, last sentence, should have read "now" instead of "not." EPA informed NRDC of the error, but NRDC stated that if the tyopographical error had not occurred, its comments would have remained the same. In response to the October 16, 1989 NPR, NRDC again submitted comments stating that it opposes EPA's proposal to approve the bubble for reasons stated in its earlier comments. In addition, NRDC asserts that EPA appears to be going out of its way to approve the American Cyanamid bubble. The NRDC comments and EPA's responses are summarized below.

Comment #1

NRDC commented that the SIP emission limit of 2.9 lbs VOC/gal coating is too lenient to reflect reasonably available control technology (RACT) for the lines emitting below that level. NRDC claims that the limit reflects a presumptive RACT norm contained in the EPA Control Technique Guideline (CTG) for this industry, whereas States adopted these norms only to facilitate the rapid initial regulation of a large number of sources, and that the initial adoption of these norms did not relieve States or EPA of the obligation to adopt more stringent source-specific RACT limits when they are "reasonably available" and "economically and technologically feasible". NRDC argues that if each line emitting below the 2.9 lbs/gal limit were held to a revised RACT limit at that lower level, the line would not produce any emission reduction credits and the substantial emissions increase allowed by this bubble would be avoided.

Response

EPA approved the 2.9 lbs/gal limit for the State of Maryland as reflecting RACT for this source category on August 12, 1980 (45 FR 53460). The Agency relied, in part, on the emissions reduction resulting from that limit when it approved the SIP for the Metropolitan Baltimore Air Quality Control Region (AQCR) as adequate to assure attainment and maintenance of the ozone standard by December 31, 1987 (49 FR 8610).

On November 24, 1987, in its proposed post-87 ozone/carbon monoxide policy, EPA stated that if air quality monitors indicated sufficient exceedances of the ozone standard in the area that a SIP call would be issued (51 FR 45044). A SIP call is a finding by EPA under Clean Air Act section 110(a)(2)(H) that a SIP must be revised, and thus amounts to a revocation, for certain purposes, of EPA's approval of the SIP and the attainment demonstration. Since publication of the proposed post-87 ozone/carbon monoxide policy, air quality monitors have indicated additional exceedances of the standard during 1987. On May 26, 1988, EPA issued an ozone SIP call for this area.

EPA, in approving the regulations for paper coating in the Maryland SIP, determined that these regulations reflect RACT for the source category. While recent air quality data indicate that the Maryland SIP is inadequate to attain the ozone standard by the statutory deadline of December 31, 1987, this does not necessarily indicate that the SIP-approved regulations do not represent RACT. A separate evaluation would have to be done to determine whether or not the SIP-approved regulations represent RACT. EPA's Control Techniques Guidelines (CTG) documents, EPA-905/2-78-001, April 1978 and EPA 450/2-77-008, May 1977, discuss the development of RACT in the paper coating industry. EPA does not have any information which would substantiate NRDC's claim that the standard of 2.9 lbs/gal does not represent RACT.

Finally, NRDC's suggestion that this bubble will result in a large actual increase in VOC emissions is incorrect. EPA has no evidence that the lines for which an upward adjustment is sought from the 2.9 lbs/gal limit will increase their emissions as a result of this bubble. Rather, the new configuration of limits for those lines and the lines producing surplus reductions will merely ratify existing actual emissions at those lines. Overall emissions will not increase since more emission reductions will be obtained at certain lines in exchange for increases at other lines in the bubble. Moreover, NRDC's claim is not germane to the approvability of this bubble application. What is germane is that the new limits will require, in the aggregate, what the existing SIP limits require, and that the bubble will not result in an increase in the amount of emissions currently allowed.

Comment #2

NRDC questioned why EPA used source-specific RACT as the trading baseline in connection with a particulate matter (TSP) bubble for the B.F. Goodrich plant in Avon Lake, Ohio (49 FR 48542), but relies instead on a VOC rule for an entire industry as the RACT baseline for this bubble.

Response

EPA believes that the two bubbles are distinct. In the case of the B.F. Goodrich bubble, EPA had neither approved the State's TSP control regulation as reflecting RACT for the sources involved in the trade nor issued formal guidance on RACT for that source category. In this case, EPA had to determine and approve RACT for those sources for incorporation into the SIP. Based on the latest information available, the Agency concluded that Ohio's existing general rule did not reflect RACT for those sources. By contrast, in American Cyanamid's case, EPA has already approved and made part of the SIP the 2.9 lbs VOC/gal coating limit as RACT for the affected lines. Thus, it is appropriate for EPA to rely on that 2.9 lbs VOC/gal limit as the baseline for this emission trade.

Comment #3

NRDC commented that the State and EPA failed to show that the 2.9 lbs/gal limit requires the use of technology that is neither "reasonably available" nor "economically achievable" for the lines seeking a relaxation.

Response

Neither the Clean Air Act nor EPA regulations require the showing that NRDC suggests. This bubble is merely a reconfiguration of the emission limits that EPA has already approved as reflecting RACT for the affected lines. The reconfiguration, overall, produces emission reductions to an extent equivalent to what would result from each line emitting at the current 2.9 lbs/gal limit. Therefore, in the aggregate, the bubble emissions limits continue to produce RACT-level emission reductions. Hence, the requirement of section 172 of the Act that SIPs include emission limits that reflect RACT is satisfied.

To the extent that EPA's policy in the mid-1970s required a source-specific RACT showing in all cases, as NRDC suggests, that policy is not germane to this action. The source-specific RACT policy was necessary in the mid-seventies because EPA had not, in many instances, approved RACT for source categories via federal rulemaking. The 2.9 lbs/gal paper coating limit has already been approved, via federal rulemaking, as RACT in the Maryland SIP. The ETPS does not require that the RACT limitation be redetermined and approved but that as long as the underlying regulation is RACT, the emissions trade reflects RACT. The American Cyanamid bubble does not deviate from this 2.9 lbs/gal emission limit. Therefore, this situation cannot be fairly compared with the B.F. Goodrich bubble disapproval in Avon Lake, Ohio in which RACT had not yet been established for the source category.

Comment #4

Another concern raised by NRDC was about the interim emission limit of 3.2 pounds of VOC per gallon of coating (minus water) which was in effect until June 1, 1985. NRDC believed that it would exaggerate the deficiencies of the averaging approach and further aggravate air pollution problems for several additional months.

Response

When EPA reproposed approval of this bubble on October 16, 1989, this interim limit had already expired. Since the interim limit is no longer applicable, EPA does not intend this approval notice to include the interim limit.

Comment #5

NRDC asserts that EPA developed special exceptions to the emissions trading policy in order to approve the American Cyanamid bubble. NRDC also asserts that the equity issues cited by EPA are one-sided and consider only the impacts on the source.

Response

As stated in the October 16, 1989 NPR, EPA's emissions trading policy was silent on the circumstances which now surround the American Cyanamid bubble. Extrapolating from the concepts in the emissions trading policy and considering environmental impacts, EPA believes that this source-specific bubble is approvable.

EPA recognizes that approving this bubble will result in greater emissions at some lines than if the preexisting SIP limit were enforced at these lines. The increases at those lines, however, are compensated by reductions at other lines that have lower emissions than those required by the preexisting standard. The overall effect is to limit emissions to that which would have allowed under the preexisting SIP. In addition, this SIP revision was submitted to EPA in 1984, four years prior to the last SIP call (May 26, 1988). Since the source and State fashioned the bubble proposal based on the area's status as a NAWAD, and only after the State submitted the bubble proposal was the area converted to a NALAD,

EPA believes that it is equitable to consider this bubble as pending. Accordingly, EPA is today approving this bubble.

Final Action

EPA is today approving the Secretarial Order for American Cyanamid in Havre de Grace, Maryland submitted by the Maryland Air Management Administration on August 20, 1984, as a SIP revision. The Regional Administrator's decision to approve this Order is based on a determination that this SIP revision meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 1990. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

Nothing in this action, pertaining to the approval of this bubble for American Cyanamid in Havre de Grace, Maryland should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors, and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. (7401–7642).

Dated: April 27, 1990.

Edwin B. Erickson,

Regional Administrator.

Subpart V, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(87) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(87) Revisions to the State Implementation Plan submitted by the Maryland Department of the Environment—Air Management Administration on August 20, 1984, regarding a bubble for American Cyanamid in Havre de Grace, Maryland.

(i) Incorporation by reference:

(A) Letter from the Maryland Department of Health and Mental Hygiene—Air Management Administration (now known as the Maryland Department of the Environment—Air Management Administration) dated August 20, 1984 submitting a revision to the Maryland State Implementation Plan regarding a bubble for American Cyanamid.

(B) Secretarial Order (By Consent) between American Cyanamid and the Maryland State Department of Health and Mental Hygiene—Air Management Administration (now known as the Maryland Department of the Environment—Air Management Administration) except for section 2, approved on August 2, 1984.

(ii) Additional materials:

(A) Letter dated September 17, 1984 from Ronald E. Lipinski, MAMA, to James Topsale, EPA Region III, providing emissions information for the sources involved in the American Cyanamid bubble.

(B) Public Hearing record for the May 23, 1984 public hearing.

(C) Technical Support Document, prepared by Maryland, for American Cyanamid, including formulas to calculate bubble emissions.

3. Section 52.1118 is added to read as follows:

§ 52.1118 Approval of bubbles in nonattainment areas lacking approved demonstrations: State assurances.

In order to secure approval of a bubble control strategy for the American Cyanamid facility in Havre de Grace, Maryland (see paragraph 52.1070(c)(87)), the Maryland Department of the Environment—Air Management Administration provided certain assurances in a letter dated September 13, 1988 from George P. Ferreri, Director, to Thomas J. Maslany, Director, Air Management Division, EPA Region III. The State of Maryland assured EPA it would:

(a) Include the bubble emission limits for this plant in any new State Implementation Plan,

(b) Consider this plant with its approved bubble limits in reviewing sources for needed additional emission reductions, and

(c) Not be delayed in making reasonable efforts to provide the necessary schedules for completing the new ozone attainment plan.

[FR Doc. 90–11377 Filed 5–15–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[TN-083; FRL-3762-8]

Approval and Promulgation of Implementation Plans, Tennessee; Revision to the Nashville/Davidson County Portion of the SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On October 3, 1989, the State of Tennessee submitted as a revision to the Nashville/Davidson County portion of its State Implementation Plan, Metropolitan Health Department, Regulation No. 10, "Infectious Waste Incinerators." In response to growing concern about infectious waste incinerators, Nashville/Davidson County developed Regulation No. 10 to control the particulate and hydrogen chloride emissions from those incinerators. Today, EPA is approving Regulation No. 10.

DATES: This action will be effective on July 16, 1990. unless notice is received by June 15, 1990. that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of materials submitted by the State may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV—Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Division of Air Pollution Control, Tennessee Department of Health and Environment, 4th Floor, Customs House, 701 Broadway, Nashville, Tennessee 37219.

Metropolitan Health Department, Air Pollution Control Division, 311—23rd Avenue, North, Nashville, Tennessee 37203.

Public Information Reference Unit, Library Systems Branch, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Rosalyn D. Hughes of the EPA Region IV

Air Programs Branch, at the above address and telephone number (404) 347-2864 or FTS 347-2864.

SUPPLEMENTARY INFORMATION: Hospitals generate large quantities of waste, including infectious wastes, spent alcohols or other solvent materials, plastic containers, and general rubbish. Most of this waste has caused much concern as landfills reach capacity, improper disposal procedures increase, and the fear of spreading viruses rises. As a result of these concerns, the handling and disposing of infectious wastes through incineration has become an important option.

The primary objective of hospital waste incineration is the destruction of pathogens in infectious waste. Pathogens are those biological components of the wastes that can cause infectious disease. While destroying the pathogens, hospital waste incinerators have the potential to emit a variety of pollutants. Including pathogens and viruses, the pollutants of concern are particulate matter, carbon monoxide, acid gases, toxic metals, toxic organic compounds, sulfur oxides, and nitrogen oxides. Proper operating conditions, such as high temperatures and specific residence times will reduce the emissions of most of the pollutants. Further reduction of air pollutants can be achieved by air pollution control equipment.

On October 3, 1989, the State of Tennessee submitted revisions to the Nashville/Davidson County portion of the State Implementation Plan (SIP) concerning infectious waste incinerators. The Nashville/Davidson County Metropolitan Health Department, Division of Pollution Control, Regulation No. 10, "Infectious Waste Incinerators" is divided into nine sections. The sections are as follows:

1. Section 10-1, Definitions, lists terms relating to infectious waste incineration previously not defined.

2. Section 10-2, Prohibited Act, states the general restriction for operating infectious waste incinerators.

3. Section 10-3, Emission Standards, establishes emission standards for particulate and hydrogen chloride. The particulate standards are comparable to the standards previously approved. The hydrogen chloride standard is based on the threshold limit value established by the Occupational Health and Safety Administration.

4. Section 10-4, Performance Specifications, lists the time and temperature, the charging system, and the startup and shutdown requirements for an infectious waste incinerator.

5. Section 10-5, Monitoring Requirements, specifies the conditions for monitoring the temperature of the secondary chamber or afterburner.

6. Section 10-6, Compliance Schedule For Existing Infectious Waste Incinerators, states how long an infectious waste incinerator has to comply with this regulation. Also, the increments of progress are listed.

7. Section 10-7, Testing Requirements, requires stack testing for particulate and hydrogen chloride. Also, the Director of the Division of Pollution is given the authority to request tests and specify the conditions of performance tests.

8. Section 10-8, Record Keeping and Reporting Requirements, tells how long records should be kept and where all procedures and schedules should be posted.

9. Section 10-9, Severability, states that each section is separate.

Final Action

EPA has reviewed the submitted material and found Regulation No. 10, "Infectious Waste Incinerators" to be consistent with EPA policy and requirements. Regulation No. 10 is hereby approved.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: April 23, 1990.

Lee A. DeHihns, III,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7642.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(101) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(101) Revisions to the Nashville/Davidson County portion of the Tennessee SIP submitted on October 3, 1989.

(i) Incorporation by reference.

(A) Tennessee Air Pollution Control Board Order 10-89 and Nashville/Davidson County Metropolitan Health Department Regulation No. 10, "Infectious Waste Incinerators" which became State effective September 13, 1989.

(ii) Other material.

(A) The October 3, 1989 letter from the Tennessee Department of Health and Environment submitting Regulation No. 10.

[FR Doc. 90-11378 Filed 5-15-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[FRL-3778-3]

Ocean Dumping; Final Designation of Site Located Offshore of Tutuila Island, American Samoa

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The Federal Register publication on February 6, 1990, (55 FR 3948), of the Final rule to designate an ocean disposal site southeast of Tutuila Island, American Samoa for the disposal of fish processing wastes is hereby corrected. This correction applies to the preamble of the final rule as well as the final rule. In both the preamble to the final rule and the final rule, the center of the disposal site was erroneously designated as being 5.45 nautical miles from land and having a 14°24.00′ South latitude by 170° 38.20′ West longitude. The actual longitude of the disposal site, as correctly identified in the Final Environmental Impact Statement (FEIS), dated February 3, 1989, is 170° 38.30′ West longitude. In addition, under the heading "E. Regulatory Requirements" in the preamble to the final rule, the text erroneously stated that the longshore current is located between Pago Pago Harbor and the southeastern end of the island. The current actually flows between Pago Pago Harbor and the southwestern end of the island.

DATES: This designation shall become effective when three-year special ocean dumping permits for StarKist Samoa, Inc. and VCS Samoa Packing Company, Inc. are issued.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Cotter, Ocean Dumping Coordinator (W-7-1), U.S. Environmental Protection Agency, Region IX, 1235 Mission Street, San Francisco, California 94103, or by telephone at (415) 705-2162.

Dated: May 1, 1990.

John Wise,

Acting, Regional Administrator, Region IX, U.S. Environmental Protection Agency.

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 revising paragraph (b)(74) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(74) American Samoa Fish Processing Waste Disposal Site-Region IX

Location: 14°24.00′ South latitude by 170°38.30′ West longitude (1.5 nautical mile radius).

* * * * *

[FR Doc. 90-11379 Filed 5-15-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 51222-6240]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Temporary adjustment of the meat count standard; extension of effective date.

SUMMARY: NMFS issues this notice to extend the duration of the temporary adjustment of the meat count and shell height standards for the Atlantic sea scallop fishery. This action extends to September 30, 1990, the temporary adjustment of the meat count/shell height standard of 33 meats per pound (MPP) (meats per 0.45 kg) and 3 7/16 inch (87 mm) shell height that was to expire on May 11, 1990. This action is taken at the request of the New England Fishery Management Council (Council).

EFFECTIVE DATE: May 12, 1990, through September 30, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508-281-9331.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 650 implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) provide authority to the Director, Northeast Region, NMFS (Regional Director), to adjust temporarily the meat count/shell height standards (standards) upon finding that specific criteria are met.

On February 9, 1990 (55 FR 4613), a notice was published in the Federal Register implementing a temporary adjustment of the standards to 33 MPP (3 7/16 inches (89 mm) shell height) and outlining the process by which the adjustment was made. This adjustment was effective through April 30, 1990. On May 3, 1990 (55 FR 18604), a notice was published in the Federal Register extending this adjustment through May 11, 1990. The purpose of the extension was to allow the Council time to discuss this issue at its May meeting.

On May 3, 1990, the Council voted to recommend that the Regional Director continue the extension of the temporary adjustment to the standards. The Council believes that an extension is necessary because of the preponderance of small scallops in the fishery, which is making it difficult for the industry to remain economically viable. The Council also voted to prepare an amendment to the FMP that will include measures to cap effort in this fishery; the recommendation from the Council is to continue the temporary adjustment of the standards until that amendment has been approved and implemented. The Regional Director has decided to extend the temporary adjustment an additional 5 months, until September 30, 1990. The FMP, as amended, specifies a 10 percent increase in the meat-count standard during the months of October through January, the period when spawning causes a reduction in the meat weight of scallops. This extension of the temporary adjustment will end on September 30, 1990, prior to the effective date of the spawning season adjustment.

Effective May 12, 1990, through September 30, 1990, the meat count standard will remain at 33 MPP with a corresponding 3 7/16 inch (87 mm) shell height standard.

Other Matters

This action is taken under authority of 50 CFR part 650, and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: May 10, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-11343 Filed 5-11-90; 9:21 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 95
Wednesday, May 16, 1990

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0692]

Equal Credit Opportunity; Intent to Preempt Ohio Law

AGENCY: Board of Governors of Federal Reserve System.

ACTION: Notice of intent to make preemption determination.

SUMMARY: The Board is publishing for comment a proposed determination that a provision of the Ohio Revised Code is inconsistent with the Equal Credit Opportunity Act and Regulation B and therefore is preempted. Any provision of state law that is inconsistent with the federal law, unless more protective, is preempted.

The inconsistency involves the treatment of applicants in credit transactions on the basis of age. Both the federal and the Ohio law prohibit credit discrimination on the basis of age. Federal law permits creditors to treat elderly applicants more favorably in all credit transactions, however, while Ohio law would seem to allow creditors to favor elderly applicants only in limited types of credit transactions. The Board has made a preliminary determination that the Ohio law is preempted to the extent it bars a creditor from offering more favorable terms to elderly applicants. Moreover, the Ohio law would be preempted to the extent that the consideration of age in real estate transactions and other transactions is inconsistent with the federal law.

DATES: Comments must be received on or before June 13, 1990.

ADDRESSES: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the Mail Services Courtyard Entrance on 20th Street between C Street and Constitution Avenue NW., Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. R-0692. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Jame E. Ahrens, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3667; for the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) General

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. Section 705(f) of the ECOA authorizes the Board to determine, for purposes of preemption, whether an inconsistency exists between a provision of the ECOA and a state law relating to credit discrimination. If a state law is inconsistent and provides no greater protection for credit applicants than federal law, the state law is preempted to the extent of the inconsistency. In such a case creditors in that state may not follow the inconsistent state requirement.

The Board has been asked to determine whether certain provisions of Ohio law are inconsistent with, and therefore preempted by, the ECOA and the Board's Regulation B (12 CFR part 202) which implements the ECOA. The inconsistency involves the treatment of applicants in credit transactions on the basis of age. The request came from a creditor that extends credit in Ohio, and is available for public inspection and copying, subject to the Board's rules regarding availability of information (12 CFR part 261).

This notice of proposed preemption is based on a review of the Ohio statute and the ECOA provisions. It is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's rules regarding delegation of authority (12 CFR part 265).

(2) Preemption standards.

Under section 705 of the ECOA and § 202.11 of Regulation B, state law provisions that are inconsistent with the requirements of the ECOA and the regulation are preempted, unless the state law is more protective. Section 202.11(b)(iv) of Regulation B also provides that a state law is inconsistent with and less protective than the federal law to the extent that the state law prohibits asking or considering age in a credit scoring system to determine a pertinent element of creditworthiness or to favor an elderly applicant. Preemption determinations generally are limited to those provisions of state law identified in the request for a Board determination.

(3) Comparison of Ohio law and Regulation B

The Board has made a comparison of Ohio statute section 4112.021 to section 701(b) (2) through (4) of the ECOA and § 202.6(b) of regulation B, which implements the ECOA provisions.

The ECOA and Regulation B generally prohibit credit discrimination on the basis of age. Nevertheless, a creditor may take age into account in a credit transaction as set forth below.

—A creditor may consider a credit applicant's age to determine if the applicant is of a legal age to enter into a binding contract.

—A creditor may offer more favorable credit terms to "elderly" applicants. Elderly is defined in § 202.2(o) of the regulation as a person age 62 or older.

—A creditor may take age directly into account in an empirically derived, demonstrably and statistically sound, credit scoring system of credit evaluation with one limitation: an applicant who is 62 years old or older must be treated at least as favorably, on the basis of age, as anyone who is under 62.

—A creditor using a judgmental system of credit evaluation may relate a credit applicant's age to other information about the applicant that the creditor considers in evaluating creditworthiness but may not take age directly into account in any aspect of the credit transaction (except to favor an elderly applicant).

—A creditor may also establish special purpose credit programs based on age provided the program meets the requirements of § 202.8(a)(3) of the regulation.

The relevant provision of Ohio law, Ohio Revised Code, section

4112.021(b)(1)—"Unlawful discriminatory practices in credit transactions"—is set forth below. Under Ohio law, discrimination on the basis of age—meaning any age eighteen years or older—is generally prohibited in most credit transaction.

(B) It shall be an unlawful discriminatory practice:

(1) For any creditor to:

(a) Discriminate against any applicant for credit in the granting, withholding, extending, or renewing of credit, or in the fixing of the rates, terms, or conditions of any form of credit, on the basis of * * * age * * * except that this * * * shall not apply with respect to any real estate transaction between a financial institution, a dealer in intangibles, or any insurance company as these terms are defined * * * and its customers; * * *

(e) Impose any special requirements or conditions * * * upon any applicant or class of applicant on the basis of * * * age in circumstances where similar requirements or conditions are not imposed on other applicants similarly situated, unless the special requirements or conditions that are imposed with respect to age are the result of a real estate transaction excepted under division (B)(1)(a) of this section or the result of programs that grant preferences to certain age groups administered by instrumentation's or agencies of the United States, a state, or a political subdivision of the state; * * *

Under Ohio law, the favorable treatment of credit applicants age 62 years or older generally would be unlawful because section 4112.021(b)(1) prohibits discrimination (favorable or unfavorable) on the basis of age. This is clearly inconsistent with the ECOA and Regulation B which allows for favorable treatment of elderly applicants in all instances.

Ohio law does permit consideration of age in certain credit transactions specified in the statute, for example, real estate transactions. A creditor may also impose special requirements or conditions with respect to age in certain real estate transactions and in government-administered credit programs granting preferences to certain age groups. Whether these provisions of Ohio law apply in a manner consistent with the federal law is not clear, however. The state law can be read to permit a creditor to take age directly into account without limitation in all real estate transactions. Moreover, the Ohio law does not seem to permit a creditor, other than a governmental body, to establish a special purpose credit program granting preferences to certain age groups. To the extent the provisions of Ohio law section 4112.021(b)(1), with regard to the treatment of age in a credit transaction, apply in a manner that is contrary to the rules of Regulation B (in particular, § 202.6(b) and 9(a)(3)), the state law would be inconsistent with the federal law.

(4) Proposed Determination and Effect of Preemption

Based on its analysis, the Board has made a preliminary determination that the Ohio law is inconsistent with federal law, and that it is preempted by the ECOA and Regulation B to the extent of that inconsistency. Thus, if this preliminary determination is ultimately adopted following the comment period, the state of Ohio would be barred from prohibiting creditors from considering the age of an elderly applicant when age is used to favor the elderly applicant in extending credit. The state of Ohio would also be barred from permitting creditors to consider age in a manner inconsistent with or less protective than the ECOA and Regulation B in real estate transactions and other transactions covered under the state law.

(5) Comment Requested

Interested persons are invited to submit comments regarding the proposed finding that certain of the Ohio statute section 4112.021 is preempted by ECOA and Regulation B. After the close of the comment period and an analysis of the comments received, notice of final action will be published in the **Federal Register**.

List of Subjects in 12 CFR Part 202

Banks, Banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Sex discrimination, Women.

Board of Governors of the Federal Reserve System, May 10, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-11347 Filed 5-15-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1215-AA29-1376

Claims for Medical Benefits Under the Federal Employees' Compensation Act

AGENCY: Employment Standards Administration, Office of Workers' Compensation Programs, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Labor proposes revisions to subpart E of 20 CFR part 10, the rules establishing a fee schedule for medical procedures and services provided to injured Federal employees covered under the Federal Employees' Compensation Act (FECA). The rule establishing the fee schedule was published in 1986 and applies to charges for services rendered by physicians and other professionals, specifically excluding charges from hospitals, pharmacies and nursing homes. The proposed rule would extend the fee schedule to those services provided by hospitals in the outpatient setting which are the same or are a portion of the same services now under the fee schedule when rendered and billed by a physician, other medical professional or provider other than a hospital, pharmacy or nursing home. Through this proposed rule, we aim to eliminate the present situation where the same or a portion of the same service can be reimbursed at a higher cost when provided in the outpatient hospital setting than when provided by a physician or other medical provider, even though in some instances the service is being provided by the same professional group.

DATES: Written comments must be submitted on or before July 16, 1990.

ADDRESSES: Send written comments to Thomas H. Markey, Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, room S-3229, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523-7552.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Director for Federal Employees' Compensation, Telephone (202) 523-7552.

SUPPLEMENTARY INFORMATION: The Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.*, establishes the workers' compensation system for Federal workers and provides in part that the United States shall furnish:

* * * the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation * * *

The expenses for such services, when authorized and approved by the Secretary, are paid out of the Employees' Compensation Fund. Medical costs, which amounted to $285,000,000 in Chargeback Year 1989, now represents 22% of the total outlays under the FECA and are growing at a

faster rate than that for compensation and other non-medical costs. Since 1985, medical costs have increased 61%. Reimbursement to hospital providers comprise approximately 36% of the total medical costs of the program.

In June, 1986 the Office of Workers' Compensation Programs (OWCP), which administers the FECA under the authority granted by the Secretary, implemented a fee schedule for the reimbursement of charges for medical services provided by physicians and certain other non-hospital providers for the treatment of injuries covered under the FECA. Hospitals, nursing homes and pharmacies were specifically excluded from coverage.

The purpose of the fee schedule is, in part, to monitor and control the amount of medical cost outlays. It was established in part in response to recommendations made by the Department of Labor's Office Of Inspector General (OIG) in reports beginning in 1982. In a review of the automated systems established by OWCP, the General Accounting Office (GAO) noted in a report published in December 1987, that the fee schedule for physicians was an important step in fulfilling the OIG's recommendations but other initiatives to expand the schedule should be explored. This proposed rule is a response to that recommendation.

The fee schedule not only enables the program to assign maximum reimbursable amounts to particular medical services but also provides a comprehensive history of the medical care provided to individual claimants by covered providers. The schedule is based on the relative unit value system developed by the Division of Labor and Industry, State of Washington and the Physician Procedural Terminology (CPT–4) coding scheme. While the fee schedule is national in scope, it allows for regional variations in medical costs through a geographic index. (For a complete explanation of the fee schedule, refer to the **Federal Register**, Vol. 49, No. 111, Thursday, June 7, 1984, pages 23658–23661 and 46 FR 8276, March 10, 1986).

The fee schedule has worked well in assisting OWCP to monitor and control reimbursement for certain medical services. Approximately 50% of the $285,000,000 paid in 1989 for medical costs was not subject to the fee schedule, including $102,000,000 paid for services provided by hospitals, which are specifically excluded from coverage under the fee schedule. This exclusion of all services provided by hospitals has resulted in an anomaly in billing, so that the same service can be paid at different rates, depending on what facility performs it. In some cases the identical service by the identical provider could be billed and paid at different rates. For example, a medical laboratory may provide services to a physician and also to a hospital. If those services are requested by a physician and the bill is submitted to OWCP either by the physician or by the lab directly, it would be subject to the fee schedule. If the tests were ordered by a hospital which contracts out its lab work and the bill were submitted by it, however, the charge would not be subject to the fee schedule and could be paid at a higher rate. Expansion of the fee schedule to cover outpatient hospital-based services would eliminate this anomaly and is an important step toward enhancing the program's ability to monitor the nature and cost of medical care.

This expansion is not without precedent. Other compensation systems also use this method to monitor and control medical costs. At least two state compensation programs—Washington (which, as noted, served as the model on which the OWCP fee schedule is based) and West Virginia—have modified their systems to reimburse identical or portions of identical services at the same rates regardless of provider type. OWCP's proposal to modify its fee schedule system is similar in intent.

This modification of the fee schedule is not expected to impose an unfair burden on hospital providers. At present, 91% of all bills subject to the fee schedule are paid at 100% of the billed amount, and the average reduction represents only 4.6% of the billed amount. The use of CPT codes and other billing requirements are not new to hospitals. Medicare requires CPT–4 coding of outpatient laboratory and x-ray services. The other billing requirements are intrinsic to the Universal bill (UB–82), a form commonly used by hospitals.

Statutory Authority

5 U.S.C. 8149 provides the general statutory authority for the secretary to prescribe rules and regulations necessary for administration and enforcement of the Federal Employees' Compensation Act.

5 U.S.C. 8145 provides that the Secretary of Labor shall administer the Act, may appoint employees to administer it, and may delegate powers conferred by the Act to any employee of the Department of Labor.

5 U.S.C. 8103 (a) and (b) specifies that the Secretary may approve or authorize "necessary and reasonable" expenses to be paid from the Employees' Compensation Fund; may issue regulations governing the provision of services, appliances and supplies; and may prescribe the form and content of the authorization certificate.

Classification

The Department of Labor has concluded that the regulatory proposal does not constitute a "major rule" under Executive Order 12291, because it is unlikely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, state or local government agencies, or georgraphic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprised to compete with foreign-based enterprises in domestic or export markets.

It is expected that the bill reduction experience will be similar to that obtained with the application of the fee schedule to physicians and other medical professional charges. The outpatient hospital charges subject to the fee schedule are estimated at slightly over $2,500,000, while the projected reductions are approximately $125,000 per year. Thus, there would be an effect on the economy far below $100 million. No significant increase in consumer or government cost is expected: rather containment of costs is the goal. No adverse effect on competition or U.S. enterprise can be foreseen. Accordingly, no regulatory analysis is required.

Paperwork Reduction Act

The information collection requirements entailed by the proposed regulations have previously been approved by OMB.

Regulatory Flexibility Act

The Department believes that the rule will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Public Law No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). Although this rule will be applicable to small entities it should not result in or cause any a significant economic impact, since the application of the fee schedule provisions will not significantly reduce the amount of money paid to most hospital providers for the medical outpatient medical services rendered to FECA beneficiaries. The Secretary has so certified to the Chief Counsel for Advocacy of the Small Business Administration. Accordingly, no regulatory impact analysis is required.

List of Subjects in 20 CFR Part 10

Claims, Government employees, Archives and records, Health records, Freedom of Information, Privacy, Penalties, Health professions, Workers Compensation, Employment, Administrative practice and procedure Wages, health facilities, Dental health, Medical devices, Health care, Lawyers, Legal services, Student, X-rays, Labor, Insurance, Kidney disease, Lung disease, Tort claims.

For the reasons set out in the preamble, it is proposed that part 10 of chapter I of title 20 of the Code of Federal Regulations be amended.

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

1. The authority citation for part 10 is revised to read as follows:

Authority: 5 U.S.C. 301; Reorg. Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149.

2. Section 10.411 is amended by revising paragraph (a)(2), (c), and the first two sentences of (d)(1) to read as follows:

§ 10.411 Submission of bills for medical services, applicances and supplies; limitation on payment for services.

(a)(1) * * *

(2) Charges for medical and surgical treatment provided by hospitals shall be supported by medical evidence as provided in § 10.410. Such charges shall be submitted by the provider on the Uniform Bill (UB-82). The provider shall identify each outpatient radiology service (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), outpatient pathology service (including automated, multichannel tests, panels, urinalysis, chemistry and toxicology, hematology, microbiology, immunology and anatomic pathology), and physical therapy service performed, using HCPCS/CPT codes with a brief narrative description. The charge for each individual service, or the total charge for all identical services should also appear in the UB-82. Other outpatient hospital services for which HCPCS/CPT codes exist shall also be coded individually using the aforementioned coding scheme. Services for which there are no HCPCS/CPT codes available can be presented using the Revenue Center Codes (RCCs) described in the "National Uniform Billing, Data Elements specifications, current edition". The provider shall also state each diagnosed condition and furnish the corresponding diagnostic code using the "International Classification of Diseases, 9th Edition, Clinical Modification" (ICD-9-CM). If the outpatient hospital services include surgical and/or invasive procedures, the provider shall state each procedure and furnish the corresponding code using the "International Classification of Diseases-Procedures, 9th Edition, Clinical Modification."

* * * * *

(c) Bills submitted by providers which are not itemized on the American Medical Association "Health Insurance Claim Form" (for physicians) or the Uniform Bill (UB-82) (for hospitals), or are not signed by the provider and the claimant, or on which procedures are not identified by the provider using HCPCS/CPT codes or RCCs, or on which diagnoses and/or surgical procedures are not identified using ICD-9-CM codes, may be returned to the provider for correction and resubmission.

(d)(1) Payment for medical and other health services furnished by physicians, hospitals and other persons for work-connected injuries shall, except as provided below, be no greater than a maximum allowable charge for such service as determined by the Director. The schedule of maximum allowable charges is not applicable to charges for appliances, supplies, services or treatment provided and billed for by hospitals for services rendered on an inpatient basis, pharmacies or nursing homes, but is applicable to charges for services or treatment furnished by a physician or other medical professional in a hospital or nursing home setting. * * *

* * * * *

Signed at Washington, DC, this 9th day of May 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-11300 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-237-84]

RIN 1545-AH43

Like-Kind Exchanges—Limitations on Deferred Exchanges; and Inapplicability of Section 1031 to Exchanges of Partnership Interests

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that add new § 1.1031(a)-3 relating to limitations on deferred exchanges and amend § 1.1031(a)-1 relating to the general requirements for exchanges under section 1031 of the Internal Revenue Code of 1986, as amended. Changes to the applicable law were made by section 77 of the Tax Reform Act of 1984, Public Law No. 98-369, 98 Stat. 494, 595-97 (the "Act"). A technical correction was made by section 1805(d) of the Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085, 2810. The regulations will provide the public with the guidance needed to comply with section 77 of the Act.

DATES: Section 1.1031(a)-3 is proposed to be effective for transfer of property made by the taxpayer after July 2, 1990, subject to an exception for certain binding contracts. The amendments to § 1.1031(a)-1 are proposed to be effective for transfers of property made by the taxpayer after July 18, 1984, subject to an exception for certain binding contracts. Written comments and/or requests to appear (with an outline of the oral comments to be presented) at a public hearing scheduled for September 5 and 6, 1990, at 10 a.m., must be received by July 27, 1990. See the notice of hearing published elsewhere in this issue of the **Federal Register** for details.

ADDRESSES: Send comments and requests to appear at the public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, room 4429, Washington, DC 20044 (Attn: CC:CORP:T:R (IA-237-84)). The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: D. Lindsay Russell, 202-343-2381 (not a toll-free number). For further information concerning the hearing, contact Bob Boyer, Regulations Unit, 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

An exchange of property, like a sale, generally results in the current recognition of gain or loss. Section 1031(a) provides an exception to this general rule. Under section 1031(a), no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged solely for property of a like kind that is

to be held either for productive use in a trade or business or for investment. Section 1031(a) specifically does not apply to exchanges of stock in trade or other property held primarily for sale, stocks, bonds, notes, other securities or evidences of indebtedness or interest, certificates of trust or beneficial interests, or choses in action.

Prior to revision by the Act, it was unclear to what extent exchanges of interests in a partnership were excluded from the nonrecognition provisions of section 1031. Compare Rev. Rul. 78–135, 1978–1 C.B. 256, with *Estate of Meyer* v. *Commissioner*, 58 T.C. 311 (1972), *nonacq.*, 1975–1 C.B. 3, *aff'd per curium*, 503 F. 2d 556 (9th Cir. 1974).

Prior to revision by the Act, section 1031 also did not specifically require that a like-kind exchange be completed within a specified period in order to qualify for nonrecognition of gain or loss. For example, in *Starker* v. *United States*, 602 F. 2d 1341 (9th Cir. 1979), the Ninth Circuit held that an exchange qualified for nonrecognition of gain or loss under section 1031 even though the property to be received by the taxpayer could be designated up to 5 years after the initial transfer of property by the taxpayer and even though the taxpayer could have ultimately received cash rather than like-kind property.

Section 77 of the Act clarified the application of section 1031 in the case of nonsimultaneous or deferred exchanges by providing specific time limits for the identification and receipt of the replacement property. In addition, this section of the Act specifically provided that section 1031(a) does not apply to any exchange of interests in a partnership.

This document contains proposed amendments and additions to the Income Tax Regulations under section 1031 of the Internal Revenue Code. These proposed amendments and additions provide guidance with respect to the amendments to section 1031 that were enacted by section 77 of the Act.

Explanation of Provisions

Deferred Exchanges

In General

Section 1031(a)(3) was added by section 77 of the Act. Section 1031(a)(3) provides that any property received by the taxpayer in a deferred exchange is treated as property which is not like-kind property if (a) such property is not identified as property to be received in the exchange on or before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or (b) such property is received after the earlier of (1) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or (2) the due date (including extensions) of the taxpayer's tax return for the taxable year in which the transfer of the relinquished property occurs.

This provision was enacted due to concern that without such restrictions the application of section 1031 to deferred exchanges would give rise to unintended results and to administrative problems. For example, the nonrecognition rules applicable to like-kind exchanges have been justified on the grounds that a taxpayer making a like-kind exchange has not changed its investment and thus a realization event resulting in the recognition of gain or loss should not be considered to have occurred. This rationale for section 1031 is less applicable in the case of deferred exchanges. To the extent the taxpayer is able to defer completion of the transaction and retains the right to designate the property to be received at some future point, the transaction resembles a sale more than an exchange. In other words, the greater the taxpayer's discretion to vary the particular property to be received in exchange for the relinquished property and to vary the date on which such replacement property (or money) is to be received, the more the transaction is appropriately treated as a sale and not as a like-kind exchange.

Although section 1031(a)(3) is limited to the identification and receipt requirements of a deferred exchange, other issues important to the application of section 1031 to deferred exchanges require clarification. In particular, the use of various security arrangements, guarantees, and intermediaries in deferred exchanges raise questions concerning the definition of a deferred exchange and concerning how the rules of actual or constructive receipt apply in the case of a deferred exchange. Questions have also been raised concerning the computation of gain or loss recognized and the basis of property received in a deferred exchange.

Thus, new § 1.1031(a)–3 is added to the regulations under section 1031 to provide guidance with respect to the following:

(a) The definition of a deferred exchange;

(b) The identification and receipt requirements of section 1031(a)(3);

(c) The receipt of money or other property in the case of a deferred exchange; and

(d) The computation of gain or loss recognized and the basis of property received in a deferred exchange.

Definition of Deferred Exchange

The proposed regulations define a deferred exchange as an exchange in which, pursuant to an agreement, the taxpayer transfers property held for productive use in a trade or business or for investment (the "relinquished property") and subsequently received property to be held either for productive use in a trade or business or for investment (the "replacement property"). In order to constitute a deferred exchange, the transaction must be an exchange (i.e., a transfer of property for property, as distinguished from a transfer of property for money). For example, a sale of property followed by a purchase of property of a like kind to the property sold does not qualify for nonrecognition of gain or loss under section 1031 regardless of whether the other requirements of section 1031 are satisfied.

The proposed regulations do not apply if the taxpayer receives the replacement property prior to the date on which the taxpayer transfers the relinquished property. Comments are requested concerning whether section 1031 applies to such transactions.

Identification and Receipt Requirements

The proposed regulations provide that, in the case of a deferred exchange, any replacement property received by the taxpayer will be treated as property which is not of a like kind to the relinquished property if (a) the replacement property is not "identified" before the end of the "identification period," or (b) the identified replacement property is not received before the end of the "exchange period." This general rule follows directly from the provisions of section 1031(a)(3). The identification period begins on the date the taxpayer transfers the relinquished property and ends 45 days thereafter. The exchange period begins on the date the taxpayer transfers the relinquished property and ends on the earlier of 180 days thereafter or the due date (including extensions) for the taxpayer's tax return for the taxable year in which the transfer of the relinquished property occurs.

As noted above, the greater the taxpayer's discretion to vary the particular property to be received in exchange for the relinquished property after the transfer of the relinquished property, the more the transaction appears to be a sale rather than an exchange. The policy underlying the

identification requirement is thus to retain the exchange character of the transaction by requiring taxpayers to identify the replacement property by the end of the identification period. This purpose is best served by requiring the identification of the replacement property to be as specific as possible.

The proposed regulations provide rules for determining whether, in the case of a deferred exchange, the taxpayer has identified replacement property before the end of the identification period. These rules are intended to balance the underlying policy of the exchange requirement with the difficulties taxpayers may face in trying to specifically identify the particular replacement property to be received in the exchange within the identification period.

Under the proposed regulations, replacement property is treated as identified for purposes of section 1031(a)(3) only if it is designated as replacement property in a written document signed by the taxpayer and hand delivered, mailed, telecopied, or otherwise sent before the end of the identification period to a person involved in the exchange other than the taxpayer or a related party. The identification may also be made in a written agreement for the exchange of properties. The replacement property must be unambiguously described in the written document or agreement. For example, real property generally is unambiguously described if it is described by a legal description or street address.

The taxpayer may identify more than 1 property as replacement property. However, regardless of the number of relinquished properties transferred by the taxpayer as part of the same deferred exchange, the maximum number of replacement properties that the taxpayer may identify is (a) 3 properties of any fair market value, or (b) any number of properties as long as their aggregate fair market value as of the end of the identification period does not exceed 200 percent of the aggregate fair market value of all the relinquished properties. With certain exceptions, if, as of the end of the identification period, the taxpayer has identified more properties than is permitted, the taxpayer is treated as if no replacement property had been identified.

The proposed regulations also provide rules for determining whether the identified replacement property is received before the end of the exchange period. In the case of a deferred exchange, the identified replacement property is received before the end of the exchange period if the replacement property is received before the end of the exchange period and the replacement property received is substantially the same property as was identified. If the taxpayer identifies more than 1 property as replacement property, the receipt rules are applied separately to each identified replacement property.

The proposed regulations provide special rules for the identification and receipt of replacement property where the replacement property is not in existence or is being produced or constructed at the time the identification is made.

Receipt of Money or Other Property

Section 1031(a) requires that the relinquished property be transferred solely for property of a like kind. If an exchange would be within the provisions of section 1031(a) but for the fact that the property received in exchange consists not only of property of a like kind but also of money or other property, section 1031(b) provides that the gain, if any, to the taxpayer is recognized in an amount not in excess of the sum of such money and the fair market value of such other property. If an exchange would be within the provisions of section 1031(a) but for the fact that the property received in exchange consists not only of property of a like kind but also of money or other property, section 1031(c) provides that no loss from the exchange is recognized.

Thus, a transfer of relinquished property in a deferred exchange is not within the provisions of section 1031(a) if, as part of the consideration, the taxpayer receives money or other property. However, such a tranfser, if otherwise qualified, will be within the provisions of either section 1031 (b) or (c). In addition, in the case of a transfer of relinquished property in a deferred exchange, gain or loss may be recognized if the taxpayer actually or constructively receives money or other property before the taxpayer actually receives the like-kind replacement property. If the taxpayer actually or constructively receives money or other property in the full amount of the consideration for the relinquished property before the taxpayer actually receives like-kind replacement property, the transaction constitutes a sale and not a deferred exchange, even though the taxpayer may ultimately receive like-kind replacement property.

The application of the foregoing rules are of particular importance to deferred exchanges. For example, after a taxpayer has transferred the relinquished property, the taxpayer typically is unwilling to rely on the transferree's unsecured promise to transfer the like-kind replaement property. Thus, taxpayers often structure deferred exchanges where the transferee's obligation to transfer the like-kind replacement property to the taxpayer is guaranteed or secured. In addition, taxpayers will often receive interest or a growth factor to compensate them for the time value of money for the period between the date of which they transfer the relinquished property and the date on which they reeive the replacement property. Finally, in many deferred exchanges the person who deisres to purchase the taxpayer's relinquished property may be unwilling or unable to acquire the replacement property. In such cases, the deferred exchange may be facilitated by the use of an intermediary.

As a general rule, a transaction such as one described in the preceding paragraph will constitute a sale and not a deferred exchange if the taxpayer actually or constructively receives money or other property in the full amount of the consideration for the relinquished property before the taxpayer actually receives the like-kind replacement property. However, the rules of actual and constructive receipt may be unclear or of uncertain application in such transactions. In order to provide clear rules for such typical transactions, the proposed regulations provide 4 safe harbors the use of which will result in a determination that the taxpayer is not in actual or constructive receipt of money or other property for purposes of these regulations. However, even if a transaction is within the safe harbors, to the extent the taxpayer has the ability or unrestricted right to receive money or other property before the taxpayer actually receives like-kind replacement property, the transfer of the relinquished property will not qualify for nonrecognition of gain or loss under section 1031(a). These safe harbors thus apply only until the taxpayer has such an ability or unrestricted right.

Under the first safe harbor, the obligation of the taxpayer's transferee to transfer the replacement property to the taxpayer is permitted to be secured or guaranteed by (a) a mortgage, deed of trust, or other security interest in property (other than cash or a cash equivalent), (b) a standby letter of credit which satisfies all of the requirements of § 15A.453–1(b)(3)(iii) and which does not allow the taxpayer to draw on such standby letter or credit except upon a default of such transferee's obligaiton to transfer like-kind replacement property, or 9c) a guarantee of a third party.

Under the second safe harbor, the obligation of the taxpayer's transferee to transfer the replacement property is permitted to be secured by cash or a cash equivalent if such cash or cash equivalent is held in a qualified escrow account or a qualified trust. In order for an escrow account or trust to be "qualified," the escrow holder or trustee, as the case may be, must not be the taxpayer or a related party, and the taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held in escrow or trust must be limited to certain specified circumstances.

Under the third safe harbor, deferred exchanges are permitted to be facilitated by the use of a qualified intermediary if the taxpayer's rights to receive money or other property are limited to certain specified circumstances. A qualified intermediary is a person who is not the taxpayer or a related party and who, for a fee, acts to facilitate a deferred exchange by entering into an agreement with the taxpayer for the exchange of properties pursuant to which such person acquires the relinquished property from the taxpayer (either on its own behalf or as the agent of any party to the transaction), acquires the replacement property (either on its own behalf or as the agent of any party to the transaction), and transfers the replacement property to the taxpayer. The qualified intermediary is considered to have acquired property even if such acquisition is subject to a binding commitment to retransfer the property. Consistent with Rev. Rul. 90-34, I.R.B. 1990-16 (April 16, 1990), the transfer of property in a deferred exchange that is facilitated by the use of a qualified intermediary may occur via a "direct deed" of legal title by the current owner of the property to its ultimate owner.

Under the fourth safe harbor, the taxpayer is permitted to receive interest or a growth factor with respect to the deferred exchange provided the taxpayer's rights to receive such interest or growth factor are limited to certain specified circumstances. Such interest or growth factor will be treated as interest regardless of whether it is paid in cash or in property (including property of a like kind). The proposed regulations do not address the proper manner for reporting interest income earned on money held in a qualified escrow account or a qualified trust. Comments are requested concerning whether the Service should exercise its regulatory authority under section 468B(g) with respect to escrow accounts and trusts used in deferred exchanges.

It is expected that most deferred exchange transactions where taxpayers desire nonrecognition of gain or loss under section 1031 can be structured to come within the safe harbors. Transactions not structured to come within the safe harbors will be carefully scrutinized.

The rules provided in these regulations relating to actual or constructive receipt are merely intended to be rules for determining whether there is actual or constructive receipt in the case of a deferred exchange under section 1031. No inference is intended regarding the application of these rules for purposes of determining whether actual or constructive receipt exists for any other purpose.

Gain or Loss and Basis Computations for Deferred Exchanges

As a general rule, the amount of gain or loss recognized and the basis of property received in a deferred exchange is determined by applying the existing rules of section 1031 and the regulations thereunder. For example, in a deferred exchange, consideration given in the form of an assumption of liabilities (or the receipt of property subject to a liability) may be offset against consideration received in the form of an assumption of liabilities (or a transfer subject to a liability).

Interests in a Partnership

Section 77 of the Act amended section 1031 to provide that section 1031(a) does not apply to any exchange of interests in a partnership. Under the proposed regulations, an exchange of partnership interests will not qualify for nonrecognition of gain or loss under section 1031(a) regardless of whether the interests exchanged are general or limited partnership interests or are interests in the same partnership or in different partnerships. This provision is not intended to affect the applicability of the rule stated in Rev. Rul. 84-52, 1984-1 C.B. 157, concerning conversions of partnership interests.

No inference is intended with respect to whether an exchange of an interest in an organization which has elected under section 761(a) to be excluded from the application of subchapter K is eligible for nonrecognition of gain or loss under section 1031(a). Comments are requested concerning the proper resolution of this issue.

Simplification

In drafting these proposed regulations, consideration has been given to ways in which the regulations can be simplified. Structuring a deferred exchange to qualify under section 1031 can be difficult due to uncertainties which are inherent in these transactions. The statute requires taht the replacement property be "identified" but does not give specific guidance as to what constitutes a proper identification. Similarly, although the determination of whether there has been a deferred exchange (and not a sale) often turns on whether the taxpayer is in actual or constructive receipt of money or other property, application of the rules of actual or constructive receipt to deferred exchanges under section 1031 may be unclear in some cases.

The proposed regulations are intended to ease taxpayer concerns relating to these uncertainties. One way in which the proposed regulations accomplish this is by setting forth safe harbors under which taxpayers may structure their transactions and be assured that, for purposes of section 1031, actual or constructive receipt will be deemed not to exist. In addition, the proposed regulations ease taxpayer concerns by providing rules that taxpayers can rely upon in identifying replacement property. The proposed regulations further simplify the identification process, for example, by permitting taxpayers to identify replacement property in a written agreement or another written document. Taxpayers are not required to file a separate identification form with the Internal Revenue Service.

Comments are requested on other ways in which the regulations could be further clarified or simplified.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Request To Appear at Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and 8 copies) to the Internal Revenue Service. All comments will be made

available for public inspection and copying. A public hearing will be held at 10 a.m. on September 5 and 6, 1990, in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington DC. See the notice of hearing pulished elsewhere in this issue of the **Federal Register** for details.

Drafting Information

The principal author of these proposed regulations is D. Lindsay Russell of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these proposed regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.1001-1 Through 1.1102-3

Basis, Gain and loss, Income taxes, Nontaxable exchanges.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR part 1, are as follows:

PART 1—INCOME TAX REGULATIONS

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

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

Par. 2. Section 1.1031(a)-1 is amended by revising paragraph (a), adding headings for paragraphs (b), (c), and (d), and adding paragraph (e) to read as follows:

§ 1.1031(a)-1 Property held for productive use in a trade or business or for investment.

(a) *In general*—(1) *Exchanges of property solely for property of a like kind.* Section 1031(a)(1) provides an exception from the general rule requiring the recognition of gain or loss upon the sale or exchange of property. Under section 1031(a)(1), no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged solely for property of a like kind to be held either for productive use in a trade or business or for investment. Under section 1030(a)(1), property held for productive use in a trade or business may be exchanged for property held for investment. Similarly, under section 1030(a)(1), property held for investment may be exchanged for property held for productive use in a trade or business. However, section 1030(a)(2) provides that section 1030(a)(1) does not apply to any exchange of—

(i) Stock in trade or other property held primarily for sale;

(ii) Stocks, bonds, or notes;

(iii) Other securities or evidences of indebtedness or interest;

(iv) Interests in a partnership;

(v) Certificates of trust or beneficial interests; or

(vi) Choses in action.

Section 1030(a)(1) does not apply to any exchange of interests in a partnership regardless of whether the interests exchanged are general or limited partnership interests or are interests in the same partnership or in different partnerships.

(2) *Exchanges of property not solely for property of a like kind.* A transfer is not within the provisions of section 1030(a) if, as part of the consideration, the taxpayer receives money or property which does not meet the requirements of section 1030(a), but the transfer, if otherwise qualified, will be within the provisions of either section 1030 (b) or (c). Similarly, a transfer is not within the provisions of section 1031(a) if, as part of the consideration, the other party to the exchange assumes a liability of the taxpayer (or acquires property from the taxpayer that is subject to a liability), but the transfer, if otherwise qualified, will be within the provisions of either section 1031 (b) or (c). A transfer of property meeting the requirements of section 1030(a) may be within the provisions of section 1030(a) even though the taxpayer transfers in addition property not meeting the requirements of section 1030(a) or money. However, the nonrecognition treatment provided by section 1031(a) does not apply to the property transferred which does not meet the requirements of section 1030(a).

(b) *Definition of "like kind."* * * *

(c) *Examples of exchanges of property of a "like kind."* * * *

(d) *Examples of exchanges not solely in kind.* * * *

(e) *Effective date.* This section applies to transfers of property made by taxpayers after July 18, 1984, in taxable years ending after that date. This section, however, does not apply in the case of any exchange pursuant to a binding contract in effect on March 1, 1984, and at all times thereafter before the exchange. This section also does not apply to any exchange of an interest as general partner pursuant to a plan of reorganization of ownership interest under a contract which took effect on March 29, 1984, and which was executed on or before March 31, 1984, but only if all the exchanges contemplated by the reorganization plan were completed by December 31, 1984.

Par. 3. A new § 1.1031(a)-3 is added in the appropriate place to read as follows:

§ 1.1031(a)-3 Treatment of deferred exchanges.

(a) *Overview.* This section provides rules for the application of section 1031 and the regulations thereunder in the case of a "deferred exchange." For purposes of section 1031 and this section, a deferred exchange is defined as an exchange in which, pursuant to an agreement, the taxpayer transfers property held for productive use in a trade or business or for investment (the "relinquished property") and subsequently receives property to be held either for productive use in a trade or business or for investment (the "replacement property"). In the case of a deferred exchange, if the requirements set forth in paragraphs (b), (c), and (d) of this section (relating to identification and receipt of replacement property) are not satisfied, the replacement property received by the taxpayer will be treated as property which is not of a like kind to the relinquished property. In order to constitute a deferred exchange, the transaction must be an exchange (i.e., a transfer of property for property, as distinguished from a transfer of property for money). For example, a sale of property followed by a purchase of property of a like kind does not qualify for nonrecognition of gain or loss under section 1031 regardless of whether the identification and receipt requirements of section 1031(a)(3) and paragraphs (b), (c), and (d) of this section are satisfied. The transfer of relinquished property in a deferred exchange is not within the provisions of section 1031(a) if, as part of the consideration, the taxpayer receives money or property which does not meet the requirements of section 1031(a), but the transfer, if otherwise qualified, will be within the provisions of either section 1031 (b) or (c). See § 1.1031(a)-1(a)(2). In addition, in the case of a transfer of relinquished property in a deferred exchange, gain or loss may be recognized if the taxpayer actually or constructively receives money or property which does not meet the requirements of section 1031(a) before the taxpayer actually receives like-kind replacement property. If the taxpayer actually or constructively receives money or property which does not meet the requirements of section 1031(a) in the full amount of the consideration for the relinquished property, the transaction will constitute a sale, and not a deferred exchange, even though the taxpayer may untimately received like-kind replacement property. For purposes of

this section, property which does not meet the requirements of section 1031(a) (whether by being described in section 1031(a)(2) or otherwise) is referred to as "other property." For rules regarding actual and constructive receipt, and safe harbors thereto, see paragraphs (f) and (g), respectively. For rules regarding the determination of gain or loss recognized and the basis of property received in a deferred exchange, see paragraph (j) of this section.

(b) *Identification and receipt requirements*—(1) *In general.* In the case of a deferred exchange, any replacement property received by the taxpayer will be treated as property which is not of a like kind to the relinquished property if—

(i) The replacement property is not "identified" before the end of the "identification period," or

(ii) The identified replacement property is not received before the end of the "exchange period."

(2) *Identification period and exchange period.* (i) The identification period begins on the date the taxpayer transfers the relinquished property and ends 45 days thereafter.

(ii) The exchange period begins on the date the taxpayer transfers the relinquished property and ends on the earlier of 180 days thereafter or the due date (including extensions) for the taxpayer's return of the tax imposed by chapter 1 of subtitle A of the Code for the taxable year in which the transfer of the relinquished property occurs.

(iii) If, as part of the same deferred exchange, the taxpayer transfers more than 1 relinquished property and the relinquished properties are transferred on different dates, the identification period and the exchange period are determined by reference to the earliest date on which any of such properties are transferred. For purposes of determining the date on which the identification period or the exchange period ends, section 7503 (relating to time for performance of acts where the last day for performance falls on a Saturday, Sunday, or legal holiday) does not apply.

(3) *Example.* The application of this paragraph (b) may be illustrated by the following example.

Example. (i) M is a corporation that files its federal income tax return on a calendar year basis. M and C enter into an agreement for an exchange of property that requires M to transfer property X to C. Under the agreement, M is required to identify like-kind replacement property which C is required to purchase and to transfer to M. M transfers property X to C on November 17, 1990.

(ii) The identification period ends on January 1, 1991, the day which is 45 days after the date of transfer of property X, even though it is New Year's Day. The exchange period ends on March 15, 1991, the due date for M's federal income tax return for the taxable year in which M transferred property X. However, if M is allowed the automatic six-month extension for filing its tax return, the exchange period ends on May 16, 1991, the day which is 180 days after the date of transfer of property X.

(c) *Identification of replacement property before the end of the identification period*—(1) *In general.* For purposes of paragraph (b)(1)(i) of this section (relating to the identification requirement), replacement property is identified before the end of the identification period only if the requirements of this paragraph (c) are satisfied with respect to the replacement property. However, in the case of a deferred exchange, any replacement property that is received by the taxpayer before the end of the identification period will in all events be treated as identified before the end of the identification period.

(2) *Manner of identifying replacement property.* Replacement property is identified only if it is designated as replacement property in a written document signed by the taxpayer and hand delivered, mailed, telecopied, or otherwise sent before the end of the identification period to a person involved in the exchange other than the taxpayer or a related party (as defined in paragraph (k) of this section). An identification of replacement property made in a written agreement for the exchange of properties signed by all parties thereto before the end of the identification period will be treated as satisfying the requirements of the preceding sentence, regardless of whether the agreement is "sent" to a person involved in the exchange.

(3) *Description of replacement property.* Replacement property is identified only if it is unambiguously described in the written document or agreement. Real property generally is unambiguously described if it is described by a legal description or street address. Personal property generally is unambiguously described if it is described by a specific description of the particular type of property. For example, a truck generally is unambiguously described if it is described by a specific make, model, and year.

(4) *Alternative and multiple properties.* (i) The taxpayer may identify more than 1 property as replacement property. Regardless of the number of relinquished properties transferred by the taxpayer as part of the same deferred exchange, the maximum number of replacement properties that the taxpayer may identify is—

(A) Three properties without regard to the fair market values of the properties (the "3-property rule"), or

(B) Any number of properties as long as their aggregate fair market value as of the end of the identification period does not exceed 200 percent of the aggregate fair market value of all the relinquished properties as of the date the relinquished properties were transferred by the taxpayer (the "200-percent rule").

(ii) If, as of the end of the identification period, the taxpayer has identified more properties as replacement properties than permitted by paragraph (c)(4)(i) of this section, the taxpayer is treated as if no replacement property had been identified. The preceding sentence will not apply, however, and an identification satisfying the requirements of paragraph (c)(4)(i) will be considered made, with respect to—

(A) Any replacement property received by the taxpayer before the end of the identification period, and

(B) Any replacement property identified before the end of the identification period and received before the end of the exchange period, but only if the taxpayer receives identified replacement property constituting at least 95 percent of the aggregate fair market value of all identified replacement properties before the end of the exchange period.

(iii) For purposes of applying the 3-property rule and the 200-percent rule, all identifications of property as replacement property, other than identifications of property as replacement property which have been revoked in the manner provided in paragraph (c)(6) of this section, are taken into account. For example, if, in a deferred exchange, B transfers property X with a fair market value of $100,000 to C and B receives like-kind property Y with a fair market value of $50,000 before the end of the identification period, under paragraph (c)(1) of this section, property Y is treated as identified by reason of being received before the end of the identification period. Thus, under paragraph (c)(4)(i), B may identify either two additional replacement properties of any fair market value or any number of additional replacement properties as long as the aggregate fair market value of the additional replacement properties does not exceed $150,000.

(5) *Incidental property disregarded.* (i) Solely for purposes of applying this paragraph (c), property that is incidental

to a larger item of property is not treated as property that is separate from the larger item of property. Property is incidental to a larger item of property if—

(A) In standard commercial transactions, the property is typically transferred together with the larger item of property, and

(B) The aggregate fair market value of all such property does not exceed 15 percent of the aggregate fair market value of the larger item of property.

(ii) *Examples.* The application of this paragraph (c)(5) may be illustrated by the following examples.

Example 1. For purposes of paragraph (c) of this section, a spare tire and tool kit will not be treated as separate property from a truck with a fair market value of $10,000, if the aggregate fair market value of the spare tire and tool kit does not exceed $1,500. In such case, for purposes of the 3-property rule, the truck, spare tire, and tool kit are treated as 1 property. Moreover, for purposes of paragraph (c)(3) of this section (relating to the description of replacement property), the truck, spare tire, and tool kit are all considered to be unambiguously described if the make, model, and year of the truck are specified, even if no reference is made to the spare tire and tool kit.

Example 2. For purposes of paragraph (c) of this section, furniture, laundry machines, and other miscellaneous items of personal property will not be treated as separate property from an apartment building with a fair market value of $1,000,000 if the aggregate fair market value of the furniture, laundry machines, and other personal property does not exceed $150,000. In such case, for purposes of the 3-property rule, the apartment building, furniture, laundry machines, and other personal property are treated as 1 property. Moreover, for purposes of paragraph (c)(3) of this section (relating to the description of replacement property), the apartment building, furniture, laundry machines, and other personal property are all considered to be unambiguously described if the legal description or street address of the apartment building is specified, even if no reference is made to the furniture, laundry machines, and other personal property.

(6) *Revocation of identification.* An identification of property as replacement property may be revoked at any time before the end of the identification period. An identification of property as replacement property is treated as revoked only if such revocation is made in a written document signed by the taxpayer and hand delivered, mailed, telecopied, or otherwise sent before the end of the identification period to the person to whom the identification of the replacement property was sent. An identification of property as replacement property that is made in a written agreement for the exchange of properties is treated as revoked only if such revocation is made in a written amendment to such agreement or in a written document signed by the taxpayer and hand delivered, mailed, telecopied, or otherwise sent before the end of the identification period to all of the parties to the agreement.

(7) *Examples.* The application of this paragraph (c) may be illustrated by the following examples. Unless otherwise provided in an example, the following facts are assumed: B, a calendar year taxpayer, and C agree to enter into a deferred exchange. Pursuant to their agreement, B transfers real property X to C on May 17, 1991. Real property X, which has been held by B for investment, is unencumbered and has a fair market value on May 17, 1991, of $100,000. On or before July 1, 1991 (the end of the identification period), B is required to identify replacement property that is of a like kind to real property X. On or before November 13, 1991 (the end of the exchange period), C is required to purchase the property identified by B and to transfer that property to B. To the extent the fair market value of the replacement property transferred to B is greater or less than the fair market value of real property X, either B or C, as applicable, will make up the difference by paying cash to the other party after the date the replacement property is received by B. No replacement property is identified in the agreement. The replacement property is described by legal description and is of a like kind to real property X (determined without regard to section 1031(a)(3) and this section). B intends to hold the replacement property received for investment.

Example 1. (*i*) On July 2, 1991, B identifies real property H as replacement property by designating real property H as replacement property in a written document signed by B and personally delivered to C.

(*ii*) Because the identification was made after the end of the identification period, pursuant to paragraph (b)(1)(i) (relating to the identification requirement), real property H is treated as property which is not of a like kind to real property X.

Example 2. (*i*) On June 3, 1991, B identifies the replacement property as "unimproved land located in Hood County with a fair market value not to exceed $100,000." The designation is made in a written document signed by B and personally delivered to C. On July 8, 1991, B and C agree that real property H is the property described in the June 3, 1991 document.

(*ii*) Because real property H was not unambiguously described before the end of the identification period, no replacement property was identified before the end of the identification period.

Example 3. (*i*) On June 28, 1991, B identifies real properties J, K, and L as replacement properties by designating such properties as replacement properties in a written document signed by B and personally delivered to C. The written document provides that by August 1, 1991, B will orally inform C which of the identified properties C is to transfer to B. As of July 1, 1991, the fair market values of real properties J, K, and L are $75,000, $100,000, and $125,000, respectively.

(*ii*) Because B did not identify more than 3 properties as replacement properties, the requirements of the 3-property rule was satisfied, and real properties J, K, and L are all identified before the end of the identification period.

Example 4. (*i*) On May 17, 1991, B identifies real properties M, N, P, and Q as replacement properties by designating such properties as replacement properties in a written document signed by B and personally delivered to C. The written document provides that by July 2, 1991, B will orally inform C which of the identified properties C is to transfer to B. As of July 1, 1991, the fair market values of real properties M, N, P, and Q are $30,000, $40,000, $50,000, and $60,000, respectively.

(*ii*) Although B identified more than 3 properties as replacement properties, the aggregate fair market value of the identified properties as of the end of the identification period ($180,000) did not exceed 200 percent of the aggregate fair market value of real property X (200% × $100,000 = $200,000). Therefore, the requirements of the 200-percent rule are satisfied, and real properties M, N, P, and Q are all identified before the end of the identification period.

Example 5. (*i*) On May 20, 1991, B identifies real properties R and S as replacement properties by designating such properties as replacement properties in a written document signed by B and personally delivered to C. On June 4, 1991, B identifies real properties T and U as replacement properties in the same manner. On June 5, 1991, B telephones C and orally revokes the identification of real properties R and S. As of July 1, 1991, the fair market values of real properties R, S, T, and U are $50,000, $70,000, $90,000 and $100,000, respectively.

(*ii*) Pursuant to paragraph (c)(6) of this section (relating to revocation of identification), the oral revocation of the identification of real properties R and S is invalid. Thus, the identification of real properties R and S is taken into account for purposes of determining whether the requirements of paragraph (c)(4) of this section (relating to the identification of alternative and multiple properties) are satisfied. Because B identified more than 3 properties and the aggregate fair market value of the identified properties and the aggregate fair market value of the identified properties as of the end of the identification period ($310,000) exceeds 200 percent of the fair market value of real property X (200% x $100,000 = $200,000), the requirements of paragraph (c)(4) are not satisfied, and B is treated as if B did not identify any replacement property.

(d) *Receipt of identified replacement property*—(1) *In general.* For purposes of paragraph (b)(1)(ii) of this section (relating to the receipt requirement), the

identified replacement property is received before the end of the exchange period only if the requirements of this paragraph (d) are satisfied with respect to the replacement property. In the case of a deferred exchange, the identified replacement property is received before the end of the exchange period if—

(i) The taxpayer receives the replacement property before the end of the exchange period, and

(ii) The replacement property received is substantially the same property as identified.

If the taxpayer has identified more than 1 property as replacement property, section 1031(a)(3)(B) and this paragraph (d) are applied separately to each replacment property.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples. The following facts are assumed: B, a calendar year taxpayer, and C agree to enter into a deferred exchange. Pursuant to their agreement, B transfers real property X to C on May 17, 1991. Real property X, which has been held by B for investment, is unencumbered and has a fair market value on May 17, 1991, of $100,000. On or before July 1, 1991 (the end of the identification period), B is required to identify replacement property that is of a like kind of real property X. On or before November 13, 1991 (the end of the exchange period), C is required to purchase the property identified by B and to transfer that property to B. To the extent the fair market value of the replacement property transferred to B is greater or less than the fair market value of real property X, either B or C, as applicable, will make up the difference by paying cash to the other party after the date the replacement property is received by B. The replacement property is identified as provided in pargragph (c) of this section (relating to identification of replacement property) and is of a like kind to real property X (determined without regard to section 1031(a)(3) and this section). B intends to hold any replacement property received for investment.

Example 1. (*i*) In the exchange agreement, B identifies real properties J, K, and L as replacement properties. The agreement provides that by July 26, 1991, B will orally inform C which of the properties C is to transfer to B.

(*ii*) As of July 1, 1991, the fair market values of real properties J, K, and L are $75,000, $100,000, and $125,000, respectively. On July 26, 1991, B instructs C to acquire real property K. On October 31, 1991, C purchases real property K for $100,000 and transfers the property to B.

(*iii*) Because real property K was identified before the end of the identification period and was received before the end of the exchange period, the identification and receipt requirements of section 1031(a)(3) and this section are satisfied with respect to real property K.

Example 2. (*i*) In the exchange agreement, B identifies real property P as replacement property. Real property P consists of 2 acres of unimproved land and has a fair market value of $250,000. As of October 3, 1991, real property P remains unimproved and has a fair market value of $250,000. On that date, at B's direction, C purchases 1½ acres of real property P for $187,500 and transfers it to B, and B pays $87,500 to C.

(*ii*) The fair market value of the portion of real propety P that B received ($187,500) is 75 percent of the fair market value of real property P as of the date of receipt. B is considered to have received substantially the same property as identified.

(e) *Special rules for identification and receipt of replacement property to be produced*—(1) *In general.* A transfer of relinquished property in a deferred exchange will not fail to qualify for nonrecognition of gain or loss under section 1031 merely because the replacement property is not in existence or is being produced at the time the property is identified as replacement property. For purposes of this paragraph, the term "produced" or "production" has the same meaning as provided in section 263A(g)(1) and the regulations thereunder.

(2) *Identification.* (i) In the case of replacement property that is to be produced, the replacement property must be identified as provided in paragraph (c) of this section (relating to identification of replacement property). For example, if the identified replacement property consists of improved real property where the improvements are to be constructed, the description of the replacement property satisfies the requirements of paragraph (c)(3) (relating to description of replacement property) if a legal description is provided for the underlying land and as much detail as is practicable at the time the identification is made is provided for construction of the improvements.

(ii) For purposes of paragraphs (c)(4)(i)(B) and (5) of this section (relating to 200-percent rule and incidental property), the fair market value of replacement property that is to be produced is its estimated fair market value as of the date it is expected to be received by the taxpayer.

(3) *Receipt.* (i) For purposes of paragraph (d)(1)(ii) of this section (relating to receipt of the identified replacement property), in determining whether the replacement property received by the taxpayer is substantially the same property as identified where the identified replacement property is property to be produced, variations due to usual or typical production changes are not taken into account. However, if substantial changes are made in the property to be produced, the replacement property received will not be considered to be substantially the same property as identified.

(ii) If the identified replacement property is personal property to be produced, the replacement property received will not be considered to be substantially the same property as identified unless production of the replacement property received is completed on or before the date the property is received by the taxpayer.

(iii) If the identified replacement property is real property to be produced and the production of the property is not completed on or before the date the taxpayer receives the property, the property received will be considered to be substantially the same property as identified only if—

(A) The replacement property received constitutes real property, and

(B) The replacement property received, had production been completed on or before the date the taxpayer received the property, would have been considered to be substantially the same property as identified.

(4) *Additional rules.* The transfer of relinquished property is not within the provisions of section 1031(a) if the relinquished property is transferred in exchange for services (including production services). Thus, any additional production occurring with respect to the replacement property after the property is received by the taxpayer will not be treated as the receipt of property of a like kind.

(f) *Receipt of money or other property*—(1) *In general.* A transfer of relinquished property in a deferred exchange is not within the provisions of section 1031(a) if, as part of the consideration, the taxpayer receives money or other property. However, such a transfer, if otherwise qualified, will be within the provisions of either section 1031 (b) or (c). See § 1.1031(a)–1(a)(2). In addition, in the case of a transfer of relinquished property in a deferred exchange, gain or loss may be recognized if the taxpayer actually or constructively receives money or other property before the taxpayer actually receives like-kind replacement property. If the taxpayer actually or constructively receives money or other property in the full amount of the consideration for the relinquished property before the taxpayer actually receives like-hand

replacement property, the transaction will constitute a sale and not a deferred exchange, even though the taxpayer may ultimately receive like-kind replacement property.

(2) *Actual and constructive receipt.* Except as provided in paragraph (g) of this section (relating to safe harbors), for purposes of section 1031 and this section, the determination of whether (or the extent to which) the taxpayer is in actual or constructive receipt of money or other property before the taxpayer actually receives like-kind replacement property is made under the general rules concerning actual and constructive receipt and without regard to the taxpayer's method of accounting. The taxpayer is in actual receipt of money or property at the time the taxpayer actually receives such money or property or receives the economic benefit of such money or property. The taxpayer is in constructive receipt of money or property at the time such money or property is credited to the taxpayer's account, set apart for the taxpayer, or otherwise made available so that the taxpayer may draw upon it at any time or so that the taxpayer can draw upon it if notice of intention to withdraw is given. Although the taxpayer is not in constructive receipt of money or property if the taxpayer's control of its receipt is subject to substantial limitations or restrictions, the taxpayer is in constructive receipt of such money or property at the time such limitations or restrictions lapse, expire, or are waived. In addition, actual or constructive receipt of money or property by an agent of the taxpayer (determined without regard to paragraph (k) of this section) is actual or constructive receipt by the taxpayer.

(3) *Example.* The application of this paragraph (f) may be illustrated by the following example.

Example. (*i*) B, a calendar year taxpayer, and C agree to enter into a deferred exchange under the following terms and conditions. On May 17, 1991, B is to transfer real property X to C. Real property X, which has been held by B for investment, is unencumbered and has a fair market value on May 17, 1991, of $100,000. On or before July 1, 1991 (the end of the identification period), B is required to identify replacement property that is of a like kind to real property X. On or before November 13, 1991 (the end of the exchange period), C is required to purchase the property identified by B and to transfer that property to B. At any time after May 17, 1991, and before C has purchased the replacement property, B has the right, upon notice, to demand that C pay $100,000 in lieu of acquiring and transferring the replacement property. Pursuant to the terms of the agreement, B identifies replacement property, and C purchases the replacement property and transfers it to B.

(*ii*) Under the terms of the agreement, B has the unrestricted right to demand the payment of $100,000 as of May 17, 1991. B is therefore in constructive receipt of $100,000 on that date. Because B is in constructive receipt of money in the full amount of the consideration for the relinquished property before B actually receives the like-kind replacement property, the transaction constitutes a sale, and the transfer of real property X does not qualify for nonrecognition of gain or loss under section 1031. B is treated as if B received the $100,000 in consideration for the sale of real property X and then purchased the like-kind replacement property.

(*iii*) If B's right to demand payment of the $100,000 was subject to a substantial limitation or restriction (e.g., any of the circumstances described in paragraph (g)(6) of this section), then, for purposes of this section, B would not be in actual or constructive receipt of the money unless (or until) the limitation or restriction lapsed, expired, or was waived.

(g) *Safe harbors*—(1) *In general.* Paragraphs (g) (2) through (5) set forth 4 safe harbors the use of which will result in a determination that the taxpayer is not in actual or constructive receipt of money or other property for purposes of section 1031 and this section. However, even if a transaction is within the safe harbors, to the extent the taxpayer has the ability or unrestricted right to receive money or other property before the taxpayer actually receives like-kind replacement property, the transfer of the relinquished property will not qualify for nonrecognition of gain or loss under section 1031(a). These safe harbors thus apply only until the taxpayer has such an ability or unrestricted right. For purposes of this paragraph (g), the person to whom the taxpayer transfers the relinquished property is referred to as the "taxpayer's transferee."

(2) *Security or guarantee arrangements.* In the case of a deferred exchange, the determination of whether the taxpayer is in actual or constructive receipt of money or other property before the taxpayer actually receives like-kind replacement property will be made without regard to the fact that the obligation of the taxpayer's transferee to transfer the replacement property to the taxpayer is or may be secured or guaranteed by one or more of the following—

(i) A mortgage, deed of trust, or other security interest in property (other than cash or cash equivalent),

(ii) A standby letter of credit which satisfies all of the requirements of § 15A.453–1(b)(3)(iii) and which does not allow the taxpayer to draw on the standby letter of credit except upon a default of the transferee's obligation to transfer like-kind replacement property to the taxpayer, or

(iii) A guarantee of a third party.

(3) *Qualified escrow accounts and qualified trusts.* (i) In the case of a deferred exchange, the determination of whether the taxpayer is in actual or constructive receipt of money or other property before the taxpayer actually receives like-kind replacement property will be made without regard to the fact that the obligation of the taxpayer's transferee to transfer the replacement property to the taxpayer is or may be secured by cash or equivalent if the cash or cash equivalent is held in a qualified escrow account or in a qualifed trust.

(ii) A qualifed escrow account is an escrow account where—

(A) The escrow holder is not the taxpayer or a related party (as defined in paragraph (k) of this section), and

(B) The taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held in the escrow account are limited to the circumstances described in paragraph (g)(6) of this section.

(iii) A qualified trust is a trust where—

(A) The trustee is not the taxpayer or a related party (as defined in paragraph (k) of this section), and

(B) The taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held by the trustee are limited to the circumstances described in paragraph (g)(6) of this section.

(4) *Qualified intermediaries.* (i) In the case of a deferred exchange, the determination of whether the transaction will be treated as an exchange and of whether the taxpayer is in actual or constructive receipt of money or other property before the taxpayer actually receives like-kind replacement property will be made without regard to the fact that the taxpayer's transferee is or may be the taxpayer's agent. This paragraph (g)(4) applies only if—

(A) The taxpayer's transferee is a qualified intermeidary, and

(B) The taxpayer's rights to receive money or other property from the qualified intermediary are limited to the circumstances described in paragraph (g)(6) of this section.

(ii) A qualified intermediary is a person who—

(A) Is not the taxpayer or a related party (as defined in paragraph (k) of this section), and

(B) For a fee, acts to facilitate the deferred exchange by entering into an agreement with the taxpayer for the exchange of properties pursuant to which such person acquires the relinquished property from the taxpayer (either on its own behalf or as the agent

of any party to the transaction), acquires the replacement property (either on its own behalf or as the agent of any party to the transaction), and transfers the replacement property to the taxpayer.

(5) *Interest and growth factors.* In the case of a deferred exchange, the determination of whether the taxpayer is in actual or constructive receipt of money or other property before the taxpayer actually receives the like-kind replacement property will be made without regard to the fact that the taxpayer is or may be entitled to receive any interest or growth factor with respect to the deferred exchange . The preceding sentence applies only if the taxpayer's rights to receive such interest or growth factor are limited to the circumstances described in paragraph (g)(6) of this section. For additional rules concerning interest or growth factors, see paragraph (h) of this section.

(6) *Additional restrictions on certain safe harbors.* For purposes of paragraphs (g) (3) through (5) of this section, a taxpayer's rights are limited to the circumstances described in this paragraph (g)(6) if the taxpayer does not have the right to receive money or other property until—

(i) If the taxpayer has not identified replacement property before the end of the identification period, after the end of the identification period,

(ii) After the taxpayer has received all of the identified replacement property to which the taxpayer is entitled,

(iii) If the taxpayer identifies replacement property, after the later of the end of the identification period and the occurrence of a material and substantial contingency that—

(A) Relates to the deferred exchange,

(B) Is provided for in writing, and

(C) Is beyond the control of the taxpayer or a related party (as defined in paragraph (k) of this section), or

(iv) Otherwise, after the end of the exchange period.

(7) *Examples.* The application of this paragraph (g) may be illustrated by the following examples. Unless otherwise provided in an example, the following facts are assumed: B, a calendar year taxpayer, and C agree to enter into a deferred exchange. Pursuant to their agreement, B transfers real property X to C on May 17, 1991. Real property X, which has been held by B for investment, is unencumbered and has a fair market value on May 17, 1991, of $100,000. On or before July 1, 1991 (the end of the identificaiton period), B is required to identify replacement property that is of a like kind to real property X. On or before November 13, 1991 (the end of the exchange period), C is required to purchase the property identified by B and to transfer that property to B. To the extent the fair market value of the replacement property transferred to B is greater or less than the fair market value of real property X, either B or C, as applicable, will make up the difference by paying cash to the other party after the date the replacement property is received by B. The replacement property is identified as provided in paragrah (c) of this section (relating to identification of replacement property) and is of a like kind to real property X (determined without regard to section 1031(a)(3) and this section). B intends to hold any replacement property received for investment.

Example 1. (*i*) On May 17, 1991, B transfers real property X to C, and C deposits $100,000 in escrow as security for C's obligation to perform under the agreement. The escrow agreement provides as follows: The funds in escrow are to be used to purchase the replacement property. If B fails to identify replacement property on or before July 1, 1991, B may demand the funds in escrow at any time after July 1, 1991. If B identifies and receives replacement property, then B may demand the balance of the remaining funds in escrow at any time after B has received the replacement property. Otherwise, B is entitled to all funds in escrow after November 13, 1991. The escrow holder is not a related party as defined in paragraph (k) of this section. Pursuant to the terms of the agreement, B identifies replacement property, and C purchases the replacement property using the funds in escrow and transfers the replacement property to B.

(*ii*) Because C's obligation to transfer the replacement property to B was secured by cash held in a qualified escrow account, and B did not have the ability or unrestricted right to the money or other property before B actually received the like-kind replacement property, for purposes of section 1031 and this section, B is determined not to be in actual or constructive receipt of the $100,000 held in escrow before B received the like-kind replacement property.

Example 2. (*i*) On May 17, 1991, B transfers real property X to C, and C deposits $100,000 in escrow as security for C's obligation to perform under the agreement. Also on May 17, B identifies real property J as replacement property. The escrow agreement provides as follows: The funds in escrow are to be used to purchase the replacement property. B may demand the funds in escrow at any time after the later of July 1, 1991, and the occurrence of any of the following events: (A) Real property J is destroyed, stolen, seized, requisitioned, or condemned, or (B) a determination is made that the regulatory approval necessary for the transfer of real property J cannot be obtained in time for real property J to be transferred to B before the end of the exchange period. In addition, B may demand the funds in escrow at any time after August 14, 1991, if real property J has not been rezoned from residential to commercial use by that date. Otherwise, B is entitled to all funds in escrow after the earlier of November 13, 1991, and the time at which B has received all of the identified replacement property to which B is entitled. The escrow holder is not a related person as described in paragraph (k) of this section. Real property J is not rezoned from residential to commercial use on or before August 14, 1991.

(*ii*) From May 17, 1991, until August 15, 1991, C's obligation to transfer the replacement property to B is secured by cash held in a qualified escrow account, and B does not have the ability or unrestricted right to receive money or other property before B actually receives the like-kind replacement property. Therefore, for purposes of section 1031 and this section, B is determined not to be in actual or constructive receipt of the $100,000 in escrow from May 17, 1991 until August 15, 1991. However, on August 15, 1991, B had the unrestricted right, upon notice, to draw upon the $100,000 held in escrow. Because B constructively received the full amount of the consideration ($100,000) before B actually received the like-kind replacement property, the transaction is treated as a sale and not as a deferred exchange. The result does not change merely because B chooses not to demand the funds in escrow and continues to attempt to have real property J rezoned and to receive the property on or before November 13, 1991.

(*iii*) If real property J had been rezoned on or before August 14, 1991, and C had purchased real property J and transferred it to B on or before November 13, 1991, the transaction would have qualified for nonrecognition of gain or loss under section 1031(a).

Example 3. (*i*) Assume that on May 1, 1991, B enters into an agreement to sell real property X to D for $100,000 on May 17, 1991. On May 16, 1991, B retains C to facilitate a deferred exchange with respect to real property X by entering into a deferred exchange agreement. Under the terms of the deferred exchange agreement, on May 17, 1991, B will transfer real property X to C subject to D's right to purchase real property X for $100,000 on that date. On or before July 1, 1991, B is required to identify replacement property that is of a like kind to real property X. On or before November 13, 1991, C is required to purchase the property identified by B and to transfer that property to B. B's rights to receive money or other property from C are limited to the circumstances described in paragraph (g)(6) of this section. B pays C a fee of $y to facilitate the transaction. C is not a related party as defined in paragraph (k) of this section.

(*ii*) On May 17, 1991, C acquires real property X from B and simultaneously transfers real property X to D in exchange for $100,000. For reasons unrelated to the federal income tax, legal title to real property X is transferred directly from B to D. On June 1, 1991, B identifies real property J as replacement property. On August 9, 1991, C purchases real property J for $100,000 and transfers it to B.

(*iii*) Even though C acquired real property X subject to D's right to purchase the property on prearranged terms and conditions, for purposes of paragraph (g)(4)(ii)(B) of this section (relating to the

definition of a qualified intermediary), C acquired real property X. Similarly, C also acquired real property J. Because, in addition, the other requirements of paragraph (g)(4)(ii) are satisfied, C is a qualified intermediary.

(*iv*) Because B's rights to receive money or other property from C were limited to the circumstances described in paragraph (g)(6), under paragraph (g)(4)(i) of this section (relating to qualified intermediaries), B was not in constructive receipt of money or other property before B received real property J. Accordingly, the transfer of real property X by B qualifies for nonrecognition of gain or loss under section 1031(a).

Example 4. (*i*) Assume that on May 1, 1991, B enters into an agreement to sell real property X to D for $100,000 on May 17, 1991. On May 16, 1991, B retains C to facilitate a deferred exchange with respect to real property X by entering into a deferred exchange agreement. Pursuant to the deferred exchange agreement, on May 17, 1991, B transfers real property X to D and directs D to pay $100,000 to C. On June 28, 1991, B identifies replacement property that is of a like kind to real property X. On November 12, 1991, C purchases the property identified by B for $100,000 and transfers that property to B. B's rights to receive money or other property from C are limited to the circumstances described in paragraph (g)(6) of this section. B pays C a fee of $y to facilitate the transaction. C is not a related party as defined in paragraph (k) of this section and is not D's agent.

(*ii*) Because C did not acquire real property X from B, the requirements of paragraph (g)(4)(ii)(B) of this section (relating to the definition of a qualified intermediary) have not been satisfied, and C is not a qualified intermediary. In addition, because B did not enter into an agreement for the exchange of property but instead entered into separate agreements to sell real property X to D and to purchase other real property, the transaction is not a deferred exchange. Therefore, the transfer of real property X does not qualify for nonrecognition of gain or loss under section 1031.

(h) *Interest and growth factors*—(1) *In general.* For purposes of this section, the taxpayer is treated as being entitled to receive interest or a growth factor with respect to a deferred exchange if the amount of money or property the taxpayer is entitled to receive depends upon the length of time elapsed between transfer of the relinquished property and receipt of the replacement property.

(2) *Treatment as interest.* If, as part of a deferred exchange, the taxpayer receives interest or a growth factor, such interest or growth factor will be treated as interest, regardless of whether it is paid to the taxpayer in cash or in property (including property of a like kind). The taxpayer must include such interest or growth factor in income according to the taxpayer's method of accounting.

(i) [Reserved]

(j) *Determination of gain or loss recognized and the basis of property received in a deferred exchange*—(1) *In general.* Except as otherwise provided, the amount of gain or loss recognized and the basis of property received in a deferred exchange is determined by applying the rules of section 1031 and the regulations thereunder. See §§ 1.1031(b)-1, 1.1031(c)-1, 1.1031(d)-1, 1.1031(d)-1T, and 1.1031(d)-2.

(2) *Coordination with section 453.* [Reserved]

(3) *Examples.* The application of this paragraph (j) is illustrated by the following examples. Unless otherwise provided in an example, the following facts are assumed: B, a calendar year taxpayer, and C agree to enter into a deferred exchange. Pursuant to their agreement, B transfers real property X to C on May 17, 1991. Real property X, which has been held by B for investment, is unencumbered and has a fair market value on May 17, 1991, of $100,000. B's adjusted basis in real property X is $40,000. On or before July 1, 1991 (the end of the identification period), B is required to identify replacement property that is of a like kind to real property X. On or before November 13, 1991 (the end of the exchange period), C is required to purchase the property identified by B and to transfer that property to B. To the extent the fair market value of the replacement property transferred to B is greater or less than the fair market value of real property X, either B or C, as applicable, will make up the difference by paying cash to the other party after the date the replacement property is received. The replacement property is identified as provided in paragraph (c) of this section and is of a like kind to real property X (determined without regard to section 1031(a)(3) and this section). B intends to hold any replacement property received for investment.

Example 1. (*i*) On May 17, 1991, B transfers real property X to C and identifies real property Y as replacement property. On June 3, 1991, C transfers $10,000 to B. On September 4, 1991, C purchases real property Y for $90,000 and transfers real property Y to B.

(*ii*) The $10,000 received by B is "money or other property" for purposes of section 1031 and the regulations thereunder. Under section 1031(b), B recognizes gain in the amount of $10,000. Under section 1031(d), B's basis in real property Y is $40,000 (i.e., B's basis in real property X ($40,000), decreased in the amount of money received ($10,000), and increased in the amount of gain recognized ($10,000) in the deferred exchange).

Example 2. (*i*) On May 17, 1991, B transfers real property X to C and identifies real property Y as replacement property, and C transfers $10,000 to B. On September 4, 1991, C purchases real property Y for $100,000 and transfers real property Y to B. On the same day, B transfers $10,000 to C.

(*ii*) The $10,000 received by B is "money or other property" for purposes of section 1031 and the regulations thereunder. Under section 1031(b), B recognizes gain in the amount of $10,000. Under section 1031(d), B's basis in real property Y is $50,000 (i.e., B's basis in real property X ($40,000), decreased in the amount of money received ($10,000), increased in the amount of gain recognized ($10,000), and increased in the amount of the additional consideration paid by B ($10,000) in the deferred exchange).

Example 3. (*i*) Under the exchange agreement, B has the right at all times to demand $100,000 in cash in lieu of replacement property. On May 17, 1991, B transfers real property X to C and identifies real property Y as replacement property.

(*ii*) Because B has the right on May 17, 1991, to demand $100,000 in cash in lieu of replacement property, B is in constructive receipt of the $100,000 on that date. Thus, the transaction is a sale and not an exchange, and the $60,000 gain realized by B in the transaction (i.e., $100,000 amount realized less $40,000 adjusted basis) is recognized. If C subsequently purchases real property Y for $100,000 and transfers it to B, B will have a basis in real property Y of $100,000.

Example 4. (*i*) Under the exchange agreement, B has the right at all times to demand up to $30,000 in cash and the balance in replacement property instead of receiving replacement property in the amount of $100,000. On May 17, 1991, B transfers real property X to C and identifies real property Y as replacement property.

(*ii*) The transaction qualifies as a deferred exchange under section 1031 and this section. However, because B has the right on May 17, 1991, to demand up to $30,000 in cash, B is in constructive receipt of $30,000 on that date. Under section 1031(b), B recognizes gain in the amount of $30,000. If, before November 13, 1991, C purchases real property Y for $100,000 and transfers it to B, under section 1031(d), B will have a basis in real property Y of $70,000 (i.e., B's basis in real property X ($40,000), decreased in the amount of money that B received ($30,000), increased in the amount of gain recognized ($30,000), and increased in the amount of additional consideration paid by B ($30,000) in the deferred exchange).

Example 5. (*i*) Assume real property X is encumbered by a mortgage of $30,000. On May 17, 1991, B transfers real property X to C and identifies real property Z as replacement property, and C assumes the $30,000 mortgage on real property X. Real property Z is encumbered by a $20,000 mortgage. On July 5, 1991, C purchases real property Z for $90,000 by paying $70,000 and assuming the mortgage and transfers real property Z to B with B assuming the mortgage.

(*ii*) The consideration received by B in the form of the liability assumed by C ($30,000) is offset by the consideration given by B in the form of the liability assumed by B ($20,000). The excess of the liability assumed by C over the liability assumed by B, $10,000, is treated as "money or other property." See § 1.1031(b)-1(c). Thus, under section 1031(b),

B recognizes gain under section 1031(b) in the amount of $10,000. Under section 1031(d), B's basis in real property Z is $40,000 (i.e., B's basis in real property X ($40,000), decreased in the amount of money that B is treated as receiving in the form of the liability assumed by C ($30,000), increased in the amount of money that B is treated as paying in the form of the liability assumed by B ($20,000), and increased in the amount of the gain recognized ($10,000) in the deferred exchange).

(k) *Definition of related party*—(1) For purposes of this section, a person is a related party if—

(i) Such person and the taxpayer bear a relationship described in either section 267(b) or section 707(b) (determined by substituting "10 percent" for "50 percent" each place it appears),

(ii) Such person acts as the taxpayer's agent (including, for example, by performing services as the taxpayer's employee, attorney, or broker), or

(iii) Such person and a person described in paragraph (k)(1)(ii) of this section bear a relationship described in either section 267(b) or section 707(b) (determined by substituting "10 percent" for "50 percent" each place it appears).

(2) In determining whether a person acts as the taxpayer's agent, solely for purposes of this paragraph (k), the following are not taken into account—

(i) The performance of services for the taxpayer with respect to exchanges of property intended to qualify for nonrecognition of gain or loss under section 1031, and

(ii) The performance by a financial institution of routine financial services for the taxpayer.

(l) *Definition of fair market value.* For purposes of this section, the fair market value of property means the fair market value of the property without regard to liabilities.

(m) *No interference with respect to actual or constructive receipt rules outside of section 1031.* The rules provided in this section relating to actual or constructive receipt are merely intended to be rules for determining whether there is actual or constructive receipt in the case of a deferred exchange. No inference is intended regarding the application of these rules for purposes of determining whether actual or constructive receipt exists for any other purpose.

(n) *Effective date.* This section generally applies to transfers of property by a taxpayer made after July 2, 1990. This section does not apply to any transfer made pursuant to a written binding contract in effect on May 16, 1990, and at all times thereafter before the transfer. A contract will not fail to qualify under the written contract exception in the preceding sentence solely because the contract provides in the alternative for an exchange or a sale or solely because the property to be received in the exchange was not identified on or before May 16, 1990.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-11393 Filed 5-15-90; 8:45 am]

BILLING CODE 4830-01-m

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26 CFR Part 1

[IA-12-89]

RIN 1545-AN38

Like Kind Exchanges; Additional Rules for Exchanges of Personal Property and for Exchanges of Multiple Properties

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations that amend §§ 1.1031(a)-1 and 1.1031(b)-1(c) of the Income Tax Regulations and add new §§ 1.1031(a)-2 and 1.1031(f)-1. Section 1031(a)(1) of the Internal Revenue Code of 1986 (Code), as amended, provides that no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment if that property is exchanged solely for property of a like kind that is to be held either for productive use in a trade or business or for investment.

DATES: The public hearing will begin at 10 a.m. Thursday, September 6, 1990, or at the conclusion of the public hearing on proposed regulations related to IA-237-84, on September 6, 1990, and continue if necessary, at the same time on Friday, September 7, 1990. Requests to speak and outlines of oral comments must be received by Thursday, August 16, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA-12-89), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-566-3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that contain amendments and additions to the Income Tax Regulations under section 1031 of the Internal Revenue Code of 1986, as amended. The proposed regulations appeared in the **Federal Register** on Thursday, April 26, 1990, (55 FR 17635).

The rules of § 601.601(a) (3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Thursday, August 16, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-11394 Filed 5-15-90; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[IA-237-84]

RIN 1545-AH43

Like Kind Exchanges—Limitations on Deferred Exchanges; and Inapplicability of Section 1031 to Exchanges of Partnership Interests

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations that add new § 1.1031(a)-3 relating to limitations on deferred exchanges and amend § 1.1031(a)-1 relating to the general requirements for exchanges under section 1031 of the Internal Revenue Code of 1986, as amended. Changes to the applicable law

were made by section 77 of the Tax Reform Act of 1984, Pub. L. 98–369, 98 Stat. 494, 595–97 (the "Act"). A technical correction was made by section 1805(d) of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085, 2810.

DATES: The public hearing will begin at 10 a.m., Wednesday, September 5, 1990, and continue, if necessary, at the same time on Thursday, September 6, 1990. Requests to speak and outlines of oral comments must be received by Friday, July 27, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA–237–84), Room 4429, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that add new section 1031(a)–3 relating to limitations on deferred exchanges and amend 1031(a)–1 relating to the general requirements for exchanges under section 1031 of the Internal Revenue Code of 1986, as amended. The proposed regulations appear in the proposed rules section of this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, July 27, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–11395 Filed 5–15–90; 8:45 am]

BILLING CODE 4830–01–M

Notices

Federal Register
Vol. 55, No. 95
Wednesday, May 16, 1990

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

Forest Service

Exemption; Timber Sales, National Forest, Tahoe National Forest, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Lincoln Insect Salvage Sale.

SUMMARY: The Forest Service is exempting from appeal its decision to sell dead and dying trees that are being killed by the combined effects of bark beetles and severe drought and to rehabilitate the affected area. The project is located in the Haskell Peak area, on the Downieville Ranger District, Tahoe National Forest.

There are higher than normal levels of tree mortality occurring throughout the Tahoe National Forest as a result of three years of below normal precipitation. The drought has had the greatest effect on reducing the vigor and weakening natural defense mechanisms of over-stocked and over-mature stands. True fir stands above 5,000 feet elevation are suffering the greatest mortality. The rapid deterioration rate of true fir requires that it be removed this field season if the timber is to be utilized and its value recovered.

The Forest Supervisor has determined through environmental analysis, which included public scoping, that there is good cause to expedite this project. Salvage harvest is proposed on 2,500 acres. Approximately 25% of the trees in some stands within the analysis area are dead or dying. Regional entomologists have analyzed the situation and have found no economical or practical means to control the insect epidemic at the Forest level. Although salvage harvesting will not control the insect epidemic, it would recover valuable timber that would otherwise deteriorate and create a severe fire hazard.

It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses which would make the sale economically infeasible because of higher than normal harvesting costs. It is also important to harvest the dead and dying timber when there is the potential to get the highest return to the government and collect Knutsen-Vandenburg funds to restore forest values being lost as the result of extensive tree mortality.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision for the salvage harvest and restoration of the Lincoln analysis area on the Downieville Ranger District, Tahoe National Forest. The project would recover timber that would otherwise be lost to deterioration if delays are allowed. It would also reduce the risk of wildfire which would result if the project is not implemented in a timely manner.

EFFECTIVE DATE: This decision will be effective May 16, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111 at (415) 705-2648, or to Frank J. Waldo, Acting Forest Supervisor, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, CA 95959 at (916) 265-4531.

ADDITIONAL INFORMATION: The Cooperative Forestry Assistance Act of 1978 authorizes the Secretary of Agriculture to protect forest resources from destructive forest insect pests and diseases, and thereby enhance the growth and maintenance of forests, promote the stability of forest-related industries and employment associated therewith, aid in forest fire prevention and control, conserve the forest cover on watersheds, and protect recreational oppourtunities and other forest resources.

The environmental analysis for this proposal is documented in the Lincoln Salvage Environmental Assessment. Public participation in the analysis was solicited through a public meeting held March 14, 1990 in Grass Valley, California, and through individual contacts to publics known to be interested in timber management on the Tahoe National Forest. Comments received were considered and documented in the range of alternatives considered and the management requirement and constraints developed.

The analysis indicates that approximately four million board feet, valued at approximately four hundred and fifty thousand dollars, is being killed by the combined effects of drought and bark beetle attack. Up to 70% of the merchantable volume can be lost by the second year if true fir is left as standing dead. (USDA Circular 962 was used as a reference for the volume loss calculation and it describes decay rates in timber killed by fire. Pacific Southwest Research Station personnel have stated that the decay in timber killed by insects would be equivalent or greater.) Complete loss of this timber could result in an estimated loss of about one hundred and thirteen thousand dollars to Sierra, Placer, Yuba and Nevada Counties in National Forest Receipts.

The environmental analysis documents that salvage harvesting can be conducted to protect other resource values such as wildlife habitat, soil productivity, and watershed values. Delays for any reason could jeopardize chances of accomplishing recovery and rehabilitation of the damaged resources during this field season. These delays would result in volume and value losses, and increase the chances of wildlife due to the large quantity of standing and down fuels. The decision for the project will be issued in May 1990.

Dated: May 9, 1990.

Lawrence Bembry,

Deputy Regional Forester.

[FR Doc. 90-11258 Filed 5-15-90; 8:45 am]
BILLING CODE 3410-11-M

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

Meeting

AGENCY: Christopher Columbus Quincentenary Jubilee Commission.

ACTION: Notice of meeting.

SUMMARY: This notice announces a forthcoming meeting of the Christopher Columbus Quincentenary Jubilee Commission, a presidential commission established in 1984 (Pub. L. 98-375). The meeting will be held in Santa Fe, New

Mexico and will be chaired by Commission Chairman John N. Goudie.

DATES: Friday, May 18, 1990, from 9 a.m. to 12:30 p.m., Plenary Session (Open). Committee Meetings: Friday May 18, 1990, from 2:30 p.m. to 4 p.m., Native American Advisory Committee (Open); Friday May 18, 1990, from 2:30 p.m. to 4 p.m., Program Committee (Open); Friday May 18, 1990, from 4 p.m. to 6 p.m. Foreign Relations Committee (Open); Friday May 18, 1990, from 4 p.m. to 6 p.m. Maritime Committee (Open). Saturday, May 19, 1990, from 9 a.m. to 12:30 p.m., Plenary Session (Open).

ADDRESSES: All meetings will be held at Hilton of Santa Fe, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Francisco J. Martinez-Alvarez, Deputy Director (202) 632-1992.

SUPPLEMENTARY INFORMATION: On Thursday, May 17, the Commission will hold a conference on "The Quincentenary from the Native American Perspective". The Commission will also review proposals for endorsement submitted by interested individuals and organizations.

Francisco J. Martinez-Alvarez,

Deputy Director.

[FR Doc. 90-11341 Filed 5-15-90; 8:45 am]

BILLING CODE 6820-RB-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[P77 #38]

Marine Mammals: Issuance of Permit: NMFS, Southwest Fisheries Science Center

On January 18, 1990, Notice was published in the **Federal Register** (55 FR 1704) that an application had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038-0271 for a scientific research permit to take northern elephant seals (*Mirounga angustirostris*).

Notice is hereby given that on May 10, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that this research satisfies the issuance criteria for a scientific research permit. The taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No lethal taking is authorized.

The Permit is available for review by appointment in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910 (301/427-2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514-6196).

Dated: May 10, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 90-11307 Filed 5-15-90; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,431,039, titled "Involuted Disc Slicer", to Cazes and Heppner Forest Services Ltd., having a place of business in Clearbrook, British Columbia. The patent rights in this invention have been assigned to the United States of America. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a wood slicer apparatus for reducing trees or other fibrous masses into blocks of segments of engineered length. The apparatus uses one or two rotating discs to which curved cutting members are mounted. Material to be cut is fed at right angles to a rotating shaft member. By the precise design of the cutting members mounted on the rotating disc, wood particles of engineered length are produced.

The availability of the invention for licensing was published in the **Federal Register** Vol. 47, No. 184, page 41801. A copy of the instant patent may be purchased for $1.50 from the Commissioner of Patents and Trademarks, Washington, DC 20231. Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90-11356 Filed 5-15-90; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Czechoslovak Socialist Republic

May 10, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: June 1, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3515.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated June 25 and July 22, 1986, as amended and extended, between the Governments of the United States and the Czechoslovak Socialist Republic establishes limits for the period June 1, 1990 through May 31, 1991.

The limit for Category 443 has been adjusted for carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 10, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated June 25 and July 22, 1986, as amended and extended, between the Governments of the United States and the Czechoslovak Socialist Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972 as amended, you are directed to prohibit, effective on June 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Czechoslovakia and exported during the twelve-month period beginning on June 1, 1990 and extending through May 31, 1991, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
410/624	959,500 square meters.
433	8,080 dozen.
434	11,918 dozen.
435	7,373 dozen.
443	73,967 numbers.

Imports charged to these category limits for the period June 1, 1989 through May 31, 1990 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Czechoslovak Socialist Republic.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-11366 Filed 5-15-90; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits and Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 10, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels for the new agreement year.

EFFECTIVE: June 1, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Exeuctive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton and Man-Made Fiber Textile Agreement of January 20, 1989, as amended, and the Memorandum of Understanding dated March 11, 1989, between the Governments of the United States and the Dominican Republic establish limits and guaranteed access levels for certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the period June 1, 1990 through May 31, 1991.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 6595, published on March 14, 1987; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 7523, published on March 2, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement and the March 11, 1989 Memorandum of Understanding, but are designed to assist only in the implementation of certain of their provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 10, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of January 20, 1989, as amended, and the Memorandum of Understanding dated March 11, 1989; between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in the Dominican Republic and exported during the twelve-month period beginning on June 1, 1990 and extending through May 31, 1991, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
338/638	505,620 dozen.
339/639	505,620 dozen.
340/640	477,530 dozen.
342/642	366,294 dozen.
347/348/647/648.	1,123,600 dozen of which not more than 786,520 dozen shall be in categories 347/348 and not more than 674,160 dozen shall be in categories 647/648.
351/651	600,000 dozen.
633	69,430 dozen.
644	379,777 numbers.

Imports charged to these category limits for the period beginning on June 1, 1989 and extending through May 31, 1990 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustments in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Dominican Republic.

Additionally, pursuant to the current bilateral agreement and the Memorandum of Understanding dated March 11, 1989; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on June 1, 1990, guaranteed access levels have been established for properly certified textile products assembled in the Dominican Republic from fabric formed and cut in the United States in cotton and man-made fiber textile products in the folowing categories which are exported from the Dominican Republic during the period June 1, 1990 through May 31, 1991.

Category	Guaranteed access level
338/638	1,000,000 dozen.
339/639	1,000,000 dozen.
340/640	1,000,000 dozen.
342/642	1,000,000 dozen.
347/348/647/648	3,500,000 dozen.
351/651	1,000,000 dozen.
633	40,000 dozen.
644	2,400,000 numbers.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of February 25, 1987, as amended, shall be denied entry unless the Government of the Dominican Republic authorizes the entry and any charges to the appropriate specific limits. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-11385 Filed 5-15-90; 8:45 am]

BILLING CODE 3510-DR-M

Extension of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand; Correction

May 10, 1990.

In the first column of the notice published in the **Federal Register** on April 23, 1990 (55 FR 15261), removed the second paragraph under the heading **"SUPPLEMENTARY INFORMATION"** and insert the following paragraph:

Following consultations, the Government of Thailand agreed to the Government of the United States' proposal to extend the restraints on Categories 313 and 315 for an additional twelve months at the levels indicated in the letter published below to the Commissioner of Customs. There was not, however, a mutual agreement on the level for Categories 638/639.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-11387 Filed 5-15-90; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 90-5-CRA]

Adjustment of the Basic and 3.75% Cable Royalty Rates

AGENCY. Copyright Royalty Tribunal.

ACTION. Notice.

SUMMARY. Following the Tribunal's disposition of the adjustment of the syndicated exclusivity surcharge, the Tribunal plans to consider adjustment of the basic and 3.75% cable royalty rates. The Tribunal asks for comments whether this proceeding should be restricted to the issue of syndicated exclusivity blackout, for which the Tribunal has already been petitioned, or whether it should also include cost-of-living adjustments and/or a general review of the 3.75% rate, for which the Tribunal would need to be petitioned by a copyright owner or user with a substantial interest in the rate.

DATES: Comments and/or petitions are due June 22, 1990.

ADDRESSES: An original and five copies shall be filed with: Chairman, Copyright Royalty Tribunal 1111 20th Street, NW., suite 450, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., suite 450, Washington, DC 20036 (202) 653-5175.

SUPPLEMENTARY INFORMATION: On January 10, 1990, the Copyright Royalty Tribunal commenced a proceeding to adjust the syndicated exclusivity surcharge which some cable systems pay for the retransmission of broadcast signals to their subscribers. The proceeding was instituted in response to petitions filed by the Community Antenna Television Association (CATA) and the National Cable Television Association (NCTA). Petitioners argued that the syndicated exclusivity surcharge should be eliminated because the FCC has reinstated its former rules giving broadcasters the right to demand that cable systems black out programs which the broadcasters have the exclusive right to air.

NCTA further argued that the new FCC rules not only affected the syndicated exclusivity surcharge, but the basic statutory cable rates and the 3.75% rate, as well. However, rather than adjust all three rates in one proceeding, NCTA recommended that the Tribunal bifurcate its procedures, addressing the proposed elimination or reduction of the surcharge in one proceeding, and the effect on the basic and 3.75% rates in a later proceeding.

The Tribunal agreed with NCTA's recommendation. When the Tribunal commenced its proceeding concerning the adjustment of the syndicated exclusivity surcharge on January 10, 1990, it expressly reserved for another separately docketed proceeding whether any adjustment to the basic or 3.75% rates should be made in light of the FCC's actions. 55 FR 893, 894.

According to the schedule of the current proceeding, the Tribunal will announce its decision concerning the syndicated exclusivity surcharge in July, with the full text to be published in the **Federal Register** in early August.

The Tribunal plans to conduct its next adjustment proceeding—the effect of the new FCC blackout rules on basic and 3.75% this fall. It is intended that the written direct cases be filed by September 14. The hearing of the direct cases will take place the first half of October and rebuttal cases will be heard in mid-November.

1990 is also a window year in which the Tribunal can be petitioned to adjust the basic statutory rates for changes in the cost of living and/or to conduct a general review of the 3.75% rate. The Tribunal prefers to hold a single proceeding encompassing all the potential bases for adjustment of the basic and 3.75% rates. However, so far, no party has petitioned the Tribunal concerning these matters.

The questions for which the Tribunal solicits comments are: are there any copyright owners or users with a significant interest in the cable royalty

rates who would like the Tribunal to consider a cost of living review of the basic statutory rates or a general review of the 3.75% rate? Should these adjustments be considered in the same proceeding as the one scheduled above concerning the effect of the new FCC blackout rules on basic and 3.75%?

Comments are due June 22, 1990. Should any party wish to have the cost-of-living adjustment of basic or the general review of 3.75% consolidated with the second syndicated exclusivity surcharge proceeding, a petition requesting such consideration is due June 22, 1990.

Dated: May 10, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90-11323 Filed 5-15-90; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 2, 1990.

The USAF Scientific Advisory Board, Foreign Technology Division Advisory Group, Air Force Systems Command, will meet on 13 June 1990, from 8 a.m. to 5 p.m., and on 14 June 1989 from 8 a.m. to 1 p.m., at Wright-Patterson Air Force Base, Ohio, Building 856, room E202.

The purpose of this meeting is to receive classified briefings and hold discussions on weapons systems and technologies analysis, support to national, acquisition and operational organizations, and specific issues dealing with these areas.

The meeting concerns matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 90-11315 Filed 5-15-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Finding of No Significant Impact; 7-GeV Advanced Photon Source, Argonne National Laboratory

AGENCY: U.S. Department of Energy.

ACTION: Finding of no significant impact.

SUMMARY: The U.S. Department of Energy (DOE) has prepared an Environmental Assessment (EA) for the construction and operation of the proposed 6- to 7-GeV synchrotron radiation source, also known as the 7-GeV Advanced Photon Source (APS), at Argonne National Laboratory, Argonne, Illinois. The main APS building would be ring-shaped with a circumference of about 4,083 feet. The complex also would include offices, general and special purposes laboratories, clean room laboratories, and service operation areas. The proposed APS would provide a national facility for advancing research in physics, chemistry, biology, and the materials and health sciences.

The EA examined and compared the environmental impacts of the proposed APS Project and reasonable alternatives. Based on the analysis in the EA, and the comments received on the EA and the proposed FONSI during the 30 day public comment period, DOE has determined that the Environmental Assessment is adequate for the proposed APS Project and that the proposed action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, an environmental impact statement is not required.

A proposed FONSI and the supporting EA were made available for public review for a period of 30 days, from March 1 through March 31, 1990. Following completion of the public review period, DOE analyzed the comments received on the proposed FONSI and the Environmental Assessment. Three comment letters were received. One comment was submitted from the Illinois State Historic Preservation Office stating that the EA adequately outlines the effect of the proposed project on cultural resources and the archaeological work conducted to mitigate this impact. The second comment letter was submitted by the Mayor of Woodridge, Illinois, who states that the Village of Woodridge, located approximately 5 miles from the site, fully supports the construction of the APS. The third comment letter was submitted by the U.S. Environmental Protection Agency (EPA), Region 5. EPA agrees that wetland losses would be mitigated by the "full wetland replacement" proposed by DOE in the EA. EPA Regional guidance recommends that for construction projects, consideration be given to additional mitigation for wetland losses at a ratio of at least 1.5:1. A summary of the comments and the DOE response is presented as an attachment to this notice. No changes in the EA have been made.

Proposed Action

The proposed action is the construction and operation at Argonne National Laboratory (ANL) of the 7-GeV Advanced Photon Source and those associated facilities of the APS including the linear accelerator (linac), the synchrotron and the storage ring. The linac injects positrons into the synchrotron which accelerates them to 7-GeV before they are injected into the storage ring. The positrons circulate continuously in the storage ring with a current of approximately 100 milliampere. The storage ring is capable of accommodating 34 insertion devices specially designed to produce high brilliance x-ray beams for multi-discipline research. The experimental area, which houses the x-ray beam lines, would accommodate beam lines up to 80 meters long. The projects would occupy 70 acres of fields and forest in the sourthwest portion of the 1275-acre ANL property.

A multi-story central laboratory/office building would provide a working environment for up to 300 permanent staff scientists and support personnel at the site. Laboratory modules would be located around the outer wall of the experiment hall/storage ring building. These modules would contain offices, laboratories, a conference area, and service support space. Other proposed construction activities include service and utility buildings, parking areas, and access roads.

Alternatives

Two alternatives to the proposed action were considered in the EPA:

—No action (the 7-GeV Advanced Photon Source would not be built),

—Construction at other sites within ANL.

Taking no action would mean not constructing a 7 GeV Advanced Photon Source and would result in no changes to the existing environment. However, synchrotron radiation has emerged as a powerful tool for probing the structure of matter and studying important physical and chemical processes. If the facility is not built a number of scientific advances such as the determination of bulk and surface structure, the determination of catalytic activity of materials, microprobe impurity detection, inelastic x-ray scattering, and observation of the motion of atoms in protein systems would not occur.

Within ANL, four locations were identified as potentially suitable to meet

the space requirements of the APS. Site selection was influenced by the following factors: (1) Suitability of the site to meet technical requirements of design configuration and functional relationships; (2) suitability of topography and subsurface conditions; (3) minimal environmental resource impacts; (4) avoidance or external and traffic-generated sources of vibration; (5) provision of a buffer zone betwen APS and the ANL site boundary; (6) minimal interference of existing structures; (7) availability of existing utilities; and (8) flexibility of the site for future expansion. Consideration of these factors eliminated two areas on the basis of technical considerations and one area was eliminated because of wetland involvement and topography features. Construction of the APS facility in the so-called South 800 Area at ANL provides the best overall site based on these factors and is the preferred location for the facility.

Findings

The EPA includes an assessment of impacts of constructing and operating the APS on land use, employment levels, vegetation, threatened and endangered species, cultural and historic resources, parking and traffic, noise, worker and public health, air quality, and water and power consumption.

Construction Impacts

Initial activities at the proposed site include site grading, preparing and paving roadways and parking areas, and construction of various buildings and facilities. Erosion and sedimentation to surface waters would be controlled by limiting exposed areas, surface water diversion, water flow velocity control, slope stabilization, collection of runoff, water/solids separation, and post construction restoration. Because this property is currently part of the ANL site and has been intended eventually to support energy research facilities, this land conversion is in accord with long-range ANL planning and would have no significant direct effect on land use. Development of the entire APS site would decrease the amount of undeveloped areas in the ANL property by approximately 15%. No groundwater impacts would result since excavations do not extend to bedrock and recharge follows an extensive pathway through clay-rich glacial till which absorbs cations. Dust and fugitive emissions from construction would be temporary and local in nature. Construction noise also is expected to be temporary and local. Thus, no unusual or significant air quality problems or noise impacts are expected. No significant impacts to threatened or endangered species nor critical habitat are expected, since no such species are present on the site.

APS construction would result in the filling of three small wetlands (1.8 acres total). These wetlands provide some wildlife habitat but are of relatively low hydrological importance. The U.S. Army Corps of Engineers (COE) has issued a permit for construction in wetlands in accordance with section 404 of the Clean Water Act. As part of this permit, DOE is having consultations with the COE on the implementation of plans to mitigate wetland loss. A Floodplain and Wetland Involvement Notice was published in the **Federal Register** (54 FR 18326) on April 28, 1989. By terms of the permit, detailed engineering specifications for the created wetlands must be provided to the COE before implementation. With mitigation in place, significant impacts to wetlands are not expected. Impacts to nearby streams and aquatic biota would be minimized by following good engineering practices. Stream turbidity from construction site runoff may temporarily increase but no long-term impacts to the aquatic biota would occur.

DOE has determined that the APS project potentially would affect sites eligible for the National Register of Historic places. Consequently, DOE, Advisory Council on Historic Preservation (ACHP), and the State Historic Preservation Office (SHPO) have negotiated a Programmatic Agreement which stipulates that the DOE will develop and implement a date recovery plan in compliance with federal regulation and laws subject to SHOP review and monitoring.

Operational Impacts

Water for drinking, cooling, and other uses at the APS would be obtained from the existing water supply system. The increased demand on the ANL sanitary sewer system from APS activity would be an increase of only 3% of the excess capacity. APS water consumption would have no significant effect on public communities surrounding ANL. The pumpage rates of these communities declined from 1980 to 1985 and are expected to continue declining as they convert from well water to Lake Michigan water usage. The additional 30,000-gallons per day sanitary sewage discharge, which includes cooling water blowdown from APS activities, should have no significant effect on surface water quality. Sludge generated from the APS sanitary waste would be minimal since the increase in the demand of an additional 4 cubic yards per year is an increase of only 0.01% in the permitted limit of the ANL landfill.

The projected need for electric power represents a 19% decrease in excess power capacity available at ANL. Thus the APS power demand is not expected to affect significantly the availability of electricity in the area of Chicago and its suburbs. The operation of APS is not expected to generate significant amounts of gaseous or particulate emissions. The noise from site traffic, compressors, and cooling towers would be well within the Illinois State Noise Standard and DOE criteria for occupational safety and health. During normal operation, the dose to the nearest offsite resident (0.9 mile to the southwest of the APS) from penetrating radiation (gamma ray and neutron) is estimated to be 0.05 millirem per year which is well below the DOE standard of 100 millirem per year. The dose equivalent to workers, as the result of the maximum credible accident (probability of less than 10^{-4}), would be 1.17 rem (23% of the allowed exposure of workers). The dose equivalent at the site boundary would be less than 1 mrem. During normal operation, the dose due to airborne emissions of activated products is calculated to be 6.0×10^{-2} mrem per year at the fenceline which is well below the 10 mrem per year standard of 10 CFR part 61 (National Emission Standards for Hazardous Air Pollutants).

Operation of the proposed APS would have little potential for impact on ecological resources beyond those occurring during the construction phase. Considering that a number of APS workers would transfer from existing ANL activities to APS, the actual number of staff added to the current ANL work force of 3760 persons by APS would be relatively small (8–16%). Since housing and services are not limited within the ANL community area, no significant socioeconomic impacts are expected from the additional work force to an area that has 3.5 million people within the 20-mile radius of ANL.

Determination

Based on the analysis in the EA and the comments received on the proposed FONSI during the 30-day public comment period, DOE has determined that the EPA is adequate for the proposed APS project and that the proposed action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, an

environmental impact statement is not required.

Single copies of the EA (DOE/EA-0389) are available from: Robert C. Wunderlich, Project Manager, Advanced Photon Source, U.S. Department of Energy, Argonne Area Office, 9800 South Cass Avenue, Argonne, IL 60439, Phone: (708) 972-2366.

For further information regarding the NEPA process, contact: Carol M. Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Phone: (202) 586-4600.

Signed in Washington, DC, this 9th day of May 1990.

Raymond P. Berube,

Acting Assistant Secretary, Environment, Safety and Health.

Summary of Comments Received on the Proposed FONSI

Comment: The Environmental Protection Agency states in their letter, "For unavoidable wetland impacts, appropriate compensation is required to replace lost wetland functions, which you have proposed to do in the EA by full wetland restoration. However, the goal of our Regional guidance is that mitigation, such as wetland restoration, should be on a basis of at least a 1.5:1 ratio of mitigated wetlands to those lost. Your mitigation plans should reflect this guidance, as well as identify all affected wetlands in detail (including total acreage, vegetation present, functions, and values), according to the Federal Manual of Wetland Identification. * * * As long as wetland mitigation is provided as outlined above we will have no objections to the construction of the Project."

Response: The U.S. Corps of Engineers (COE) has federal regulatory authority for compliance with section 404 of the Clean Water Act. A wetland relocation permit for the APS Project, as outlined in the EA, has been granted to the U.S. Department of Energy by the U.S. COE (Nationwide Permit number 26) on February 2, 1989. The basis for this permit is the development of natural replacement wetlands, performing the same function as the original wetlands, on a ratio of 1:1. The COE permit was reviewed by the Illinois EPA in November 1988 as part of their responsibilities under section 401 of the Clean Water Act.

EPA states that the goal of their Regional guidance is mitigation and, as such, wetland restoration should be on a basis of at least 1.5:1 ratio of mitigated wetlands to those lost. EPA further states that this goal represents EPA regional policy and is not a regulatory requirement.

Both the EPA and the COE agree that the "functional replacement" of the wetlands is the primary objective of mitigation. The proposed mitigation will provide functional replacement of wetlands. DOE will provide final detailed designs of the mitigation, as well as the 5-year monitoring and management plans to the COE for approval. The DOE believes that the mitigation described in the EA provides "full wetland restoration" which results in "functional replacement" of the wetlands. The net effect will be "no net loss" of wetlands from the construction and operation of the APS. Additional "functional" contributions will not be needed.

Comment: The letter from the Mayor of Woodridge states that the "APS also holds the prospect of being a catalyst for local employment growth and business attraction."

Response: Section 4.3 of the EA states that the total number of personnel connected with the APS is not expected to exceed 600 people at any time. While this will increase the size of the ANL work force, it is expected that they will have the same off-site residence pattern as the existing ANL staff. Most ANL staff live within a 20-mile radius of the site. Since housing and services are not limited within the ANL commuting area, no significant socioeconomic impacts are expected from the additional work force to an area that has 3.5 million people within a 20-mile radius.

Comment: The letter from the Deputy State Historic Preservation Officer stated that the environmental assessment adequately outlines the effect of the proposed project on cultural resources and the archaeological work conducted to mitigate this impact.

Response: None required.

[FR Doc. 90-11388 Filed 5-15-90; 8:45 am]

BILLING CODE 6450-01-M

Proposed Finding of No Significant Impact Supercompactor and Repackaging Facility and TRU Waste Shredder; Rocky Flats Plant, Golden, CO; Public Comment Period Extension

AGENCY: Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: The Department of Energy (DOE) has extended the public comment period on the proposed finding of no significant impact (FONSI) for the construction and operation of the Supercompactor and Repackaging Facility (SARF) and the Transuranic (TRU) Waste Shredder (TWS) at the Rocky Flats Plant to May 22, 1990.

DATES: Comments on the proposed FONSI may be sent to Mr. Patrick J. Etchart at the address indicated below. Comments should be postmarked by May 22, 1990, to assure consideration.

ADDRESSES AND FURTHER INFORMATION: Persons requesting additional information regarding the SARF/TWS project or wishing a copy of the accompanying SARF/TWS Environmental Assessment should contact: Patrick J. Etchart, U.S. Department of Energy, Rocky Flats Plant, P.O. Box 928, Golden, CO 80402-0928, (303) 966-2054.

For general information on the DOE National Environmental Policy Act (NEPA) process, please contact: Carol M. Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4600.

SUPPLEMENTARY INFORMATION: On March 30, 1990, the DOE published a notice in the **Federal Register** (55 FR 11997) announcing the availability of the proposed FONSI and the SARF/TWS Environmental Assessment with a 30-day public comment period. The DOE received requests from several parties, including the State of Colorado, to extend the comment period. In response to these requests, and to ensure that all interested parties have time to comment, the comment period has been extended to May 22, 1990. Comments should be postmarked by May 22, 1990, to assure consideration.

Issued at Washington, DC, this 11th day of May 1990.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-11452 Filed 5-15-90; 8:45 am]

BILLING CODE 6450-01-M

Morgantown Energy Technology Center; Cooperative Agreement; Financial Assistance Award to Occidental Oil Shale, Inc.

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for cooperative agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2) the DOE, Morgantown Energy Technology Center gives notice of its plans to award a nine (9) month Cooperative Agreement

to Occidental Oil Shale, Inc. (OOSI), P.O. Box 880408, Steamboat Springs, Colorado 80488 in the estimated amount of $2,863,000. The DOE share of the project cost is $740,000; OOSI proposes to fund $1,543,000; and $400,000 will be funded by state and local agencies.

FOR FURTHER INFORMATION CONTACT: Laura E. Brandt, I-07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4079, Procurement Request No. 21-90MC27084.000.

SUPPLEMENTARY INFORMATION: The pending award is based on an unsolicited application for a cooperative research project to develop a comprehensive plan and justification for a proof-of-concept oil shale demonstration project to be built and operated by OOSI at its leased oil shale facility located in northwestern Colorado. The plan is to address a project which will recover shale oil and generate electricity from oil shale via a combination of in-situ retorting and aboveground processing. The in-situ retorting is to be accomplished using a modified in situ process developed by OOSI. This research may develop a new technology to recover vast amounts of potentially recoverable shale oil which can be of strategic importance in meeting the nation's future transportation fuel needs.

Dated: May 9, 1990.

Louis L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 90-11389 Filed 5-15-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-618-000, et al.]

Georgia Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 7, 1990.

Take notice that the following filings have been made with the Commission:

1. Georgia Power Co.

[Docket Nos. ER89-618-000]

Take notice that on April 23, 1990, Georgia Power Company (Georgia Power) tendered for filing an amendment to the Coordination Services Agreement (the Agreement) dated as of August 21, 1989, between Georia Power and Oglethorpe Power Corporation (An Electric Membership Generation & Transmission Corporation) (OPC).

Georgia Power states that the Agreement has been executed to facilitate a power purchase by OPC from Big Rivers Corporation. Georgia Power seeks waiver of the Commission's notice requirements and seeks an effective date of August 21, 1989. The Agreement will terminate on May 31, 1992. The amendment reduces the scheduling fee from $15.00 per hour per transaction to $1,000 pr month on an interim basis, pending negotiation of an agreed upon fee by the parties. Georgia Power states that the amendment resolves the only contested issue in the proceeding.

Comment date: May 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Cincinnati Gas & Electric Co.

[Docket No. ER90-343-000]

Take notice that on the Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on April 30, 1990 First Revised Rate Schedules to the Interconnection Agreement dated March 1, 1984, between Cincinnati and the East Kentucky Power Cooperative, Inc.

The First Revised Rate Schedules replace existing rate schedules for Emergency Service, Interchange Power, Short Term Power and Diversity Power. The First Revised Rate Schedules establish the applicable charges. There is no estimate of increased revenues from the charges since transactions will occur only as load and capacity conditions dictate. An April 1, 1990 effective date has been requested.

Cincinnati states that the rates and services were negotiated by the parties.

A copy of the filing was served upon East Kentucky Power Cooperative, Inc. the Public Utilities Commission of Ohio and the Public Service Commission of Kentucky.

Comment date: May 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Co.

[Docket No. ER90-241-000]

Take notice that on April 23, 1990, Duke Power Company (Duke) tendered for filing additional information requested by staff concerning the term "X" utilized in the calculation of the rate in the Agreement filed on February 23, 1990 between Duke and Yadkin, Inc.

Comment date: May 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Southwestern Public Service Co.

[Docket No. ER90-342-000]

Take notice that Southwestern Public Service Company (Southwestern) on April 27, 1990 tendered for filing proposed changes in its rates for interruptible power service to El Paso Electric Company (EPE).

The proposed change results in a 11.0 percent decrease in overall revenues for EPE's rate schedule. The proposed decrease has obtained requisite agreement from EPE. Southwestern has reached similar rate reduction agreements with a majority of its full and all of its partial requirements customers which were filed for approval by the Commission in Docket Nos. ER90-63-000, ER90-96-000 and ER90-195-000.

Copies of the filing were served upon EPE, the Public Utility Commission of Texas, and the New Mexico Public Service Commission.

Comment date: May 21, 1990, 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. 90-11325 Filed 5-15-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-48-000]

ANR Pipeline Co.; Informal Technical Conference

May 9, 1990.

Take notice that an informal technical conference will be convened in the above-captioned proceeding on June 14, 1990, at 10:00 a.m. in the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426. The conference is

being held pursuant to the Commission's order issued herein on April 30, 1990.

Attendance will be limited to parties and the staff.

Lois D. Cashell,

Secretary.

[FR Doc. 90-11321 Filed 5-15-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-4-63-001]

May 9, 1990.

Carnegie Natural Gas Co.; Tariff Filing

Take notice that on April 9, 1990, Carnegie Natural Gas Company, (Carnegie) requests that its Interim Purchased Gas Adjustment filing of March 30, 1990 be redocketed as an Out-of-Cyle PGA filing in Carnegie Docket No. TQ90-4-63-001. Carnegie states that the request arises due to a misunderstanding between Carnegie and the Staff regarding the appropriate docket for initial inclusion of "Standby" charges tracked through Carnegie's rates.

Carnegie also requests waived of the 30-day notice requirement applicable to Out-of-Cycle PGAs such that Carnegie's March 30, 1990 filing will be deemed effective as of April 1, 1990. Carnegie states that waiver is especially justified in this instance in that the filing represents a decrease in rates.

Carnegie states that a copy of the letter has been delivered to all parties on the 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 16, 1990. 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. 90-11326 Filed 5-15-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-250-004]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 9, 1990.

Take notice that on May 9, 1990, Columbia Gas Transmission Corporation (Columbia) re-filed a motion to place its suspended rates in this proceeding into effect on April 1, 1990, and tendered for filing the substitute revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, listed in appendix A attached to this filing. The revised tariff sheets bear an issue date of May 9, 1990, and a proposed effective date of April 1, 1990.

Columbia states that it is refiling the rates and tariff sheets contained in its March 27, 1990 filing and rejected by letter order dated April 30, 1990. In this filing, Columbia states that it removed $882,819 in gas prepayments from its rate base, without prejudice to its rights in the event the Commission grants its request for rehearing on this issue. Columbia further states that the transportation-related tariff sheets included in both its March 27, 1990 first revised filing and the September 29, 1989 filing are being refiled to reflect the new pagination of First Revised Volume No. 1 of its FERC Gas Tariff.

The revised filing is being made in accordance with Ordering Paragraph (B) of the Commission's order issued October 31, 1989, in these proceedings and § 154.67(a) of the Commission's Regulations.

Columbia further requests permission to withdraw certain tariff sheets mooted by the filing of its First Revised Volume No. 1 Tariff pursuant to Order No. 493 and its Order No. 497-A compliance filing, and certain tariff sheets which would change the Account No. 191 surcharge mechanism from a demand and commodity mechanism to a commodity-only surcharge mechanism.

Columbia requests expedited consideration of the filing and waiver of any applicable notice or other provisions of the Commission's Regulations to accept the tariff sheets as proposed.

Copies of the filing were served by the company upon each of it wholesale customers, interested state commissions and to each of the parties set forth on the Official Service List in the consolidated proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commissions, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before May 16, 1990. 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. Persons who are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-11320 Filed 5-15-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-591-003]

Coso Power Developers; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

May 10, 1990.

On April 23, 1990, Coso Power Developers (Applicant), of San Francisco, California, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The geothermal small power production facility is located at the Naval Weapons Center in China Lake, California. The original certification was issued on August 6, 1986 (36 FERC ¶ 62,150). The first recertification was issued on October 3, 1988 (45 FERC ¶ 61,003). The second recertification was issued on July 14, 1989 (48 FERC ¶ 51,044). The instant recertification is requested primarily due to a change in ownership of the facility. Dominion Energy, Inc., a wholly owned subsidiary of Dominion Resources, Inc., an electric utility holding company, will become a shareholder of the applicant.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-11327 Filed 5-15-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3778-2]

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 Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected costs and burdens.

DATES: Comments must be submitted on or before June 15, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NESHAP for Mercury (subpart E)—Reporting and Recordkeeping Requirements. (EPA ICR #0113.4; OMB #2060-0097). This collection would reinstate a previous activity for which approval has expired.

Abstract: Owners and operators of facilities which emit mercury (e.g. mercury ore processors, sludge incinerators) must apply to their local or State authorities for approval of facility construction or modification of systems designed to control mercury emissions. Once approved, respondents report and maintain records indicating start-up and emission test dates. EPA uses this information in order to ensure compliance with federal air emissions standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 12 hours per response. Recordkeeping imposes a daily burden of 15 minutes per respondent. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Mercury production facilities.

Estimated Number of Respondents: 274.

Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 28,291 hours.

Frequency of Collection: Annually.

Office of Air and Radiation

Title: NESHAP for Limiting Inorganic Arsenic Emissions from Glass Manufacturing Facilities (R&RR) (EPA ICR #1081.03; OMB #2060-0043). This collection would reinstate a previous activity for which approval has expired.

Abstract: Owners and operators of glass manufacturing facilities submit to the delegated State or local authority semi-annual reports on each period for which arsenic emission rates exceed federal emission limits. Additionally, new source respondents submit the following reports one time to their respective EPA regional offices: Applications for EPA approval of construction or modification of emission control systems and notifications of anticipated and actual start-up dates. An application requires the respondent to indicate the nature, design and capacity of the proposed facility. EPA uses this information to monitor compliance with federal laws which control emissions of hazardous air pollutant.

Burden Statement: The public reporting burden for this collection of information is estimated to average 4 hours per response. The recordkeeping burden is estimated at 76 hours and 36 minutes annually. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Owners and operators of glass manufacturing facilities.

Estimated Number of Respondents: 47.

Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 4,361 hours.

Frequency of Collection: Quarterly or semi-annually.

Send comments regarding the burden estimates, or any other aspects of these information collections, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460, and Nicolas Garcia, Office of Management and Budget, Paperwork Reduction Project (2070-0057), Washington, DC 20503, Telephone: (202) 395-3084.

Dated: May 9, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-11380 Filed 5-15-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following applications for a transfer of control and renewal of license for television station WTIC-TV:

Applicant, city, and state	File No.	MM docket No.
A. Arnold L. Chase & Chase Broadcasting, Inc., Hartford, CT.	BTCCT-851030KF	89-625
B. Arch Communications Corp., Hartfrd, CT.	BRCT-881201KW	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Qualfications—A, B

Ultimate—A, B

(See Appendix)—A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Donna R. Searcy,

Secretary.

Appendix

Non-Standardized Issue(s)

Applicant: Chase Broadcasting, Inc.

1. To determine whether David Chase, Cheryl C. Freedman, Chase Broadcasting, Inc., or its corporate affiliates, individually or together, were real parties in interest to the application of Arch Communications, Inc., for a construction permit for a new commercial television station to operate on channel 61, Hartford, Connecticut;

2. To determine whether David Chase, Cheryl C. Freedman, Chase Broadcasting, Inc., or its corporate affiliates acquired control of the permit or the license for channel 61, Hartford, Connecticut;

3. To determine whether Arch Communications, Inc., Chase Broadcasting Inc., or their corporate affiliates or principals abused the Commission's processes in connection with the filing and prosecution of the construction permit and transfer applications;

4. To determine whether the combination of radio and televison operations in Hartford, Connecticut, as proposed by the applicants, is consistent with the public interest.

[FR Doc. 90-11305 Filed 5-15-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

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 10220. 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 No.: 224-200202-001.

Title: The City of Los Angeles/American President Lines, Ltd., Terminal Agreement.

Parties: The City of Los Angeles American President Lines, Ltd. (APL).

Synopsis: The Agreement amends the basic agreement to provide APL a full 15.45 acres of land to be used for the storage of chassis and containers at the Port of Los Angeles (Port) and increase rent to $62,608 per month plus all applicable charges under Port Tariff No. 3.

By Order of the Federal Maritime Commission.

Dated: May 11, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-11355 Filed 5-15-90; 8:45 am]

BILLING CODE 6730-01-M

Fact Finding Investigation No. 18, Rebates and Other Malpractices in the Trans-Pacific Trades; Extension of Time

May 10, 1990.

Notice is hereby given that the Commission has determined to extend the time to July 2, 1990, for the Investigative Officers in this proceeding to issue a joint report of findings and recommendations. Such report is to remain confidential until and unless the Commission rules otherwise.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-11354 Filed 5-15-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0117]

Mission Plasma Center, Inc.; Revocation of U.S. License No. 893

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 893) and the product license issued to Mission Plasma Center, Inc., for the manufacture of Source Plasma. In a leter dated September 27, 1989, the firm requested that its establishment and product licenses be revoked and thereby waived an opportunity for a hearing.

DATES: The revocation of the establishment license (U.S. License No. 893) and the product license was effective October 24, 1989.

FOR FURTHER INFORMATION CONTACT: Joanne Binkley, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 893) and the product license issued to Mission Plasma Center, Inc., for the manufacture of Source Plasma. Mission Plasma Center, Inc., was operating and doing business at 1910 Mission Street, San Francisco, CA 94103. The mailing address of Mission Plasma Center, Inc., is 1032 Irving Street, Rm. 623, San Francisco, CA 94122.

On July 13 through 21, and August 8 through 28, 1989, FDA inspected Mission Plasma Center, Inc. These inspections revealed that the firm's standard operating procedures seriously deviated from the applicable biologics regulations. These deviations included, but were not limited to, the following: (1) Completion of donor records indicating donors were suitable to donate although donor suitability had not been adequately determined (21 CFR 640.63); (2) intentionally overbleeding donors and intentionally bleeding donors more frequently than allowed in the biologic regulations (21 CFR 640.65(b) (5) and (6)); (3) failure to record the actual weight for units of whole blood weighing more than the acceptable limit and intentionally recording the maximum allowable weight for such units (21 CFR 606.160(a)(1)); and (4) failure of the responsible head to exercise control of the establishment in all matters relating to compliance with applicable biologics regulations (600.10 (a) and (b), and 606.20 (a) and (b)).

FDA's investigation revealed that Mission Plasma, Inc., was operating in significant noncompliance with the Federal standards designed to help assure the safety, purity, and potency of Source Plasma as well as the standards for donor protection which are intended to help assure a continuous supply of healthy donors. The investigation indicated that the individuals serving in supervisory positions at Mission Plasma Center, Inc., did not adequately demonstrate their ability to operate the establishment in a manner that assures compliance with applicable regulations and the approved standard operating procedures for the firm.

Because these deviations represented a significant danger to health, FDA

suspended the establishment license (U.S. License No. 893) on September 5, 1989.

In a letter dated September 27, 1989, Mission Plasma Center, Inc., requested that its establishment and product licenses be revoked and thereby waived an opportunity for a hearing. The agency granted the licensee's request by letter to the firm dated October 24, 1989, issued under 21 CFR 601.5(a), which revoked the establishment license (U.S. License No. 893) and the product license for the manufacture of Source Plasma issued to Mission Plasma Center, Inc. FDA has placed copies of the letters dated September 5, September 27, and October 24, 1989, on file under the docket number found in brackets in the heading of this notice in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351 (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.68, the establishment license (U.S. License No. 893) and the product license issued to Mission Plasma Center, Inc., for the manufacture of Source Plasma were revoked effective October 24, 1989.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: May 4, 1990.

Gerald V. Quinnan,

Deputy Director, Center for Biologics Evaluation and Research.

[FR Doc. 90-11358 Filed 5-15-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90E-0108]

Determination of Regulatory Review Period for Purposes of Patent Extension; Ortho-Cyclen

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Ortho-Cyclen and is publishing this notice of that determination as required by law. FDA has made the determination becuase of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Ortho-Cyclen. Ortho-Cyclen (norgestimate) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Ortho-Cyclen (U.S. Patent No. 4,027,019) from Ortho Pharmaceutical Corp. and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated April 3, 1990, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period. The letter also stated that the approval of the active ingredient, norgestimate, represented the first permitted commercial marketing or use of the product. Shortly, thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Ortho-Cyclen is 5,371 days. Of this time, 4,359 days occurred during the testing phase of the regulatory review period, while 1,012 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 18, 1975. FDA has verified the applicant's claim that the investigational new drug application became effective April 18, 1975.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 24, 1987. FDA has verified the applicant's claim that the new drug application (NDA 19-653) was filed March 24, 1987.

3. *The date the application was approved:* December 29, 1989. FDA has verified the applicant's claim that NDA 19-653 was approved December 29, 1989.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 16, 1990, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 12, 1990, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the

docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 9, 1990.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 90-11359 Filed 5-15-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Program Announcement for Grants for Health Education and Training Centers

The Health Resources and Services Administration (HRSA) announces that applications are now being accepted for Fiscal Year 1990 Grants for Health Education and Training Centers (HETC) Programs under the authority of section 781(f) of the Public Health Service Act (the Act). Interested parties are invited to comment on the proposed project requirements, definitions, criteria for designating geographic service areas, review criteria, funding priorities, and formula for allocating Border Area funds described below. Section 781(f) was added by the Health Professions Reauthorization Act of 1988 (Title VI of Public Law 100-607, the Health Omnibus Programs Extension Act).

Eligible applicants are schools of allopathic or osteopathic medicine, or the parent institution on behalf of these schools, or a consortium of them. Assistance is for planning, developing, establishing, maintaining, and operating Health Education and Training Centers. Such support is designed to improve the supply, distribution, quality, and efficiency of personnel providing, in the U.S., health services along the border between the United States and Mexico or providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic and recent refugee individuals, that has demonstrated serious unmet health care needs. Assistance is also to encourage health promotion and disease prevention through public education.

Approximately $3.8 million is available to award approximately 12 competitive grants averaging $316,667. Fifty percent of the appropriated funds each fiscal year must be made available for approved applications for Border HETCs.

Interested persons are invited to comment on the following proposals. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1990 award cycle, this comment period has been reduced to 30 days. All comments received on or before June 15, 1990 will be considered before a final notice is published. No funds will be allocated or final selections made until a final notice is published stating whether the proposals are being implemented.

Written comments should be addressed to:

Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services, Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted), between the hours of 8:30 a.m. and 5 p.m.

Statutory Project Requirements

Each project must meet the following requirements:

(a) Establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

(b) Develop a plan for carrying out the Health Education and Training Centers Program after consultation with the advisory group required in item (a) above;

(c) Enter into contracts, as needed, with other institutions or entities to carry out the plans as required in item (b) above;

(d) Enter into a contract or other written agreement with one or more public or nonprofit private entities in the State which have expertise in providing health education to the public;

(e) Be responsible for the evaluation of the program;

(f) Evaluate the specific service needs for health personnel in the service area;

(g) Assist in the planning, development, and conduct of training programs to meet the needs determined under item (f) above;

(h) Conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

(i) Conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

(j) Conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

(k) Support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

(l) With respect to Border HETCs, assist in coordinating their activities and programs with any similar activities and programs carried out in Mexico along the border between the United States and Mexico;

(m) Make available technical assistance in the service area in the aspects of health care organization, financing and delivery; and

(n) Encourage health promotion and disease prevention through health education in the service area.

Grant Funds

Grants are to assist in meeting the costs of the program which cannot be met from other sources. The following restrictions apply to all funding: (a) A grantee must spend not less than 75 percent of the total funds provided to a school or schools of allopathic or osteophatic medicine in the development and operation of the health education and training center in the service area of such program; (b) to the maximum extent feasible, the grantee will obtain from non-Federal sources the amount of the total operating funds for the HETC program which are not provided by HRSA; (c) no grant or contract shall provide funds solely for the planning or development of an HETC Program for a period in excess of two years;

(d) not more than 10 percent of the annual budget of each program may be used for the renovation and equipping of clinical teaching sites; and (e) no grant or contract shall provide funds to be used outside the United States except as HRSA may prescribe for travel and communications purposes related to the conduct of a Border Health Education and Training Center. Applicants may apply for up to three years of support for a project period.

Statutory Definitions

"Border Health Education and Training Center" means an entity that is a recipient of an award under section 781(f)(1) and which is located in a county (or other political subdivisions) of a State in close proximity to the Border between the United States and Mexico.

"Community Health Center" means an entity as defined in section 330(a) of the Act and in regulations at 42 CFR 51c.102(c).

"Health Education and Training Center" or "center" means an entity that is the recipient of an HETC grant under section 781(f)(1).

"Migrant Health Center" means an entity as defined in section 329(a) of the Act and in regulations at 42 CFR 56.102(g)(1).

"Service area" means the geographic area designated for the center to carry out the HETC program, as designated by HRSA. It is located entirely within the State in which the center is located.

"School of Medicine or Osteopathic Medicine" means a school as described in section 701(4) and which is accredited as provided in section 701(5) of the Act.

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

Proposed Definitions

"Close proximity to the Border" means a county, in a State, any portion of which lies within three hundred (300) statute miles of the Border between the United States and Mexico. This definition addresses the legislative intent of section 781(f) to assist areas of the Border states which have a high concentration of medically underserved Hispanic immigrants.

"Frontier area" means those areas with a population density of less than seven individuals per square mile. This definition is set forth in section 799A(g) of the Act for grants for health care for rural areas, also administered by HRSA.

"Health professional" means any physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, nurse mid-wife, physician assistant or allied health personnel. This definition is consistent with the use of the term within other Title VII programs.

Proposed Project Requirements

In order to assure effective program administration and assessment, HRSA is proposing the following requirements in addition to the above listed statutory project requirements.

Each grantee must:

(a) Have a project director who holds a faculty appointment at an allopathic or osteopathic medical school and who is responsible for the overall direction of the project;

(b) Provide faculty to assist in the conduct of community-based educational programs and training activities;

(c) Be responsible for the quality of the community-based educational programs and training activities, and the evaluation of trainees;

(d) Provide for active participation of individuals who are associated with the administration of the medical school, and staff and faculty members of departments of family medicine, internal medicine, pediatrics, and obstetrics and gynecology; and

(e) Provide an annual evaluation of the project, including an assessment of the educational programs and the trainees.

Proposed Criteria for Designating Geographic Service Areas

It is proposed that the following considerations be used in designating geographic service areas:

1. Low-income population for the specific county (ies) in the service areas;
2. Percent change in low-income population for the specific county(ies) during the period 1980–86;
3. Ratio of primary care physicians per 100,000 population for the specific county(ies); and
4. Infant mortality rate for the specific county(ies) in the service area.

These considerations are consistent with the criteria prescribed by section 781(f) for the allocation of funding to the Border Area.

Proposed Review Criteria

The Health Resources and Services Administration proposes to review applications taking into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the intent of section 781(f);
2. The extent to which the proposed project adequately provides for the project requirements;
3. The extent to which the proposed project explains and documents the need for the project in the geographic area to be served, including relevant socio-economic and cultural characteristics of the population to be served;
4. The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;
5. The evaluative strategy to assess the project and the trainees in terms of effectiveness and proposed outcomes;
6. The extent of coordination of HETC training and education with similar activities in the areas involved; and
7. The potential of the proposed project to continue on a self-sustaining basis.

These types of criteria are consistent with those used in other Title VII programs administered by HRSA.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding preferences-funding of a specific category or group of approved applications ahead of other categories or groups of applications.
2. Funding priorities-favorable adjustment of review scores when applications meet specified objective critiera.
3. Special consideration-enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

The Administration is not proposing any special considerations in the review of applications for Fiscal Year 1990.

Statutory Funding Preference

In making awards for Fiscal Year 1990, the Secretary shall make available 50 percent of the appropriated funds for approved applications for Border Health Education and Training Centers. The remaining 50 percent shall be made available for approved applications for HETCs from non-Border areas (both urban and rural). If funds remain available after all approved applications in one category are funded, the balance shall be utilized for approved applications in the other category. This addresses the statutory funding requirements while allowing maximum flexibility in the use of funds.

Proposed Funding Priorities for Fiscal Year 1990

In determining the order of funding of approved applications, it is proposed to give priority to:

1. Applications proposing centers in which substantial training experience is in a PHS 332 health manpower shortage area, and/or PHS 329 migrant health center, PHS 330 community health center, PHS 781 funded AHEC, or State designated clinic/center serving an underserved population.

As of June 30, 1989, there are an estimated 1,955 health manpower shortage areas designated under section 332 with an estimated unserved population of 12,718,668. An estimated 4,224 primary medical practitioners are needed to remove these areas from shortage designation. These designations include geographic areas, population groups and facilities. Section 329 authorizes support for health care

services for migrant and seasonal farm workers. Section 330 authorizes support for community health centers to provide primary health care services to medically underserved populations.

This proposed funding priority is designed to provide trainees with substantial training in health manpower shortage areas, community health centers, migrant health centers, and State facilities serving underserved populations.

An applicant applying for this priority through a State or local designation must have written documentation from the appropriate State or local authority responsible for designating health personnel shortages for geographic areas, population groups and/or facilities.

This documentation must indicate that the designated geographic areas, population groups, and/or facilities are part of a State or local plan to increase service access to underserved and unserved populations. Training experiences are expected to have a positive influence on the selection of practice locations of such trainees.

Application of this funding priority is also intended to provide a more integrated Federal strategy to the implementation of health professions training assistance and primary health care service delivery programs.

2. Applications proposing centers that serve health manpower shortage areas with a greater proportion of American Indian/Alaskan Natives, Asian/Pacific Islanders, Blacks and/or Hispanics and recent refugees, than exist in the general population in the United States. These population groups continue to be underrepresented in the health professions and have insufficient access to primary medical care. Their representation should be increased to ensure equitable opportunities to a career in the health professions and equal access to health care services. For example, studies show that minority physicians provide a greater proportion of health care for medically underserved populations than other United States physicians. Therefore, this funding priority is designed to increase the number of primary care underrepresented minority health professionals.

Border Area Funding

Section 781(f) requires that certain criteria relative to the service area be considered by the Secretary in the establishment of a formula for allocating funds for each approved application for a Border Health Education and Training Center. Specifically, these criteria are:

1. The low-income population, including Hispanic individuals, and the growth rate of such population along the Border between the United States and Mexico;

2. The need of the low-income population referenced in Item 1 above for additional personnel to provide health care services along such borders; and

3. The most current information concerning mortality and morbidity and other indicators of health status for such population.

Proposed Formula for Allocating Border Area Funds

Considering the criteria in the statute, the following formula is proposed for allocating Border Area funds in Fiscal Year 1990, to be applied to each of the counties included in the service area of the center on behalf of which the application is made:

$$P \times (1 + C) \times N \times I \times 100{,}000 = F$$

Where:

(P) = Low-income population in the county
(C) = Percent change of population in the county
(N) = Need for primary care physicians in the county
(I) = Infant mortality rate in the county
(F) = Factor for each county in close proximity to the Border

For this program (HETC), project support recommended for future years will be subject to enabling legislation, appropriations, satisfactory progress, adjustment (up or down) based upon changes in data utilized in the above formula, and any changes in the scope of the project, as approved.

Formula Definitions and Data Sources

(P) *Low-income population:* The population in the county classified by the United States Bureau of the Census as having an average income at or below 125 percent of the poverty level.

Data Source: U.S. Bureau of the Census Population, 1980, Table 181.

(C) *Percent change of population*: The number of births minus the number of all deaths, plus or minus net migration in the county for the period 1980–1986, divided by the 1980 county population.

Data Source: County and City Data Book, 1988, U.S. Bureau of the Census.

(N) *Need for primary care physicians*: The ratio of primary care physicians per 100,000 population in all 236 counties in close proximity to the Border, divided by the ratio of primary care physicians to 100,000 population in the county.

Data Source: Area Resource File (ARF) System. (most recent data available)

(I) The five-year infant mortality rate for the county, divided by the average of the five-year infant mortality rate in all 236 counties in close proximity to the Border.

Data Source: Area Resource File (ARF) System. (most recent data available)

(F) *Factor for each county*: A factor for each of the 236 counties in close proximity to the Border is calculated from the formula. The factor will be recalculated each year to reflect more recent data.

Location of Border Area Counties

The 236 counties in close proximity (within 300 miles) of the Border between the United States and Mexico are located in the four States contiguous to the Border: Arizona, California, New Mexico, and Texas.

Requests for application materials, questions regarding grants policy, and completed applications should be directed to:

Grants Management Officer (D–39 PE), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6857.

If additional programmatic information is needed, please contact:

Multidisciplinary Centers and Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–18, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6850.

The application deadline date is June 16, 1990. Applications shall be considered 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 U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

Application forms will only be sent upon request. The application form PHS 6025–1, HRSA Competing Training Grant Application (OMB 0915–0060) and general instructions for this program have been approved by the Office of

Management and Budget (OMB). The supplemental instructions are under review.

The "Catalog of Federal Domestic Assistance" number for this program is 13.189. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Robert G. Harmon,

Administrator.

[FR Doc. 90-11362 Filed 5-15-90; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following request has been submitted to the Office of Managment and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Expedited review by OMB has been requested as described below.

Call PHS Reports Clearance Officer on 202-245-2100 for copy of the package.

Request for a Special Permit to Import Cynomologus, African Green, or Rhesus Monkeys into the United States—NEW—This request is for approval of information collection requirements for a special permit to be issued by the Director, Centers for Disease Control (CDC), in advance of importation into the United States of any cynomolgus (*Macaca fascicularis*), African green (*Cercopithecus aethiops*), or rhesus (*Macaca mulatta*) monkeys. This special permit requirement is separate from, and in addition to, continued compliance with existing regulations pertaining to the importation of nonhuman primates which are contained in 42 CFR 71.53, including the isolation ad quarantine measures made mandatory on March 15, 1990. Prior notification of the requirement for this special permit to import cynomolgus, African green, or rhesus monkeys into the United States was published in the **Federal Register** on Friday, April 20, 1990 (Vol. 44, No. 77, pages 15210-15211).

Respondents: Businesses of other for-profit, small businesses or organizations; *Number of Respondents:* 20; *Number of Responses per Respondent:* 5; *Average Burden per Response:* 0.5 hours; *Estimated Annual Burden:* 50 hours.

Additional Information: The need for this information collection requirement has been determined by the Director, CDC, to be immediate and approriate under legislative authorization of section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 71.54 because these three species of monkeys are capable of being an animal host or vector of human disease. continuing availability of these monkeys is critical in medical research for the testing of new drugs. The absence of these monkeys would effectively halt research and development for new treatments, including development of a vaccine against the human immunodeficiency virus. In order to receive a special permit to import any of these three species of primates, at least thirty days prior to proposed importation, a registered importer of nonhuman primates must submit to the Director, CDC, a written plan which specifies the steps that will be taken to prevent exposure of persons and animals during the entire importation and quarantine process for the arriving nonhuman primates. Importation cannot occur until receipt of written approval of the plan by the Director, CDC. OMB been requested to review and approve the special permit plans on an expedited basis. OMB approval has been requested no later than May 23. In keeping with the requirements for expedited review, we are publishing the information requirements for special permit plans.

OMB Desk Officer: Angela Antonelli.

Because of the timeframe in which OMB has been asked to act on this submission, any comments and recommendations for the proposed information collection should be provided directly to the OMB Desk Officer designated above by telephone at (202) 395-7316 or by express mail at the following address:

Human Resources and Housing Branch, New Executive Office Building, Room 3002, Washington, DC 20503.

Dated: May 10, 1990.

Phyllis M. Zucker,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

BILLING CODE 4160-18-M

OMB # 0920-XXXX
Exp. Date:_____

Public reporting burden for this collection of information is estimated to average 30 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to PHS Reports Clearance Officer; ATTN:PRA; Hubert H. Humphrey Bg, Rm 721-B; 200 Independence Ave., SW; Washington, DC 20201, and to the Office of Management and Budget; Paperwork Reduction Project (0920-XXXX); Washington, DC 20503.

DRAFT

SPECIAL PERMIT PLANS:

Any plan submitted to CDC by a registered importer for the importation and quarantine of monkeys covered under this special permit arrangement must address disease prevention procedures to be carried out in every step of the chain of custody of such monkeys, from the time of embarkation at the country of origin until delivery of these animals safely out of quarantine.

The elements (referenced by number) to be addressed by any special permit plan must include, at a minimum:

A. Basic Information

1. Number and species of monkeys
2. Origin of monkeys (country, exporter, address)
3. Anticipated use of monkeys -- scientific, educational, or exhibition

4. Name and exact location of quarantine facility

5. Means of individually identifying monkeys

B. Transit Information

1. Specific itinerary with names, dates, flights, and responsible parties to contact at every step of travel, including all ground transportation

2. Description of caging

3. Procedures to protect and train transport workers

4. Procedures to prevent contamination of other articles and cargo during transit, including physical separation of cages from other cargo

5. Procedures to decontaminate aircraft, vessel, and/or vehicles following transport

6. Proposed use, if any, of transit holding facilities and steps to be taken to protect workers, as well as animals, from disease exposure at each holding facility to be used en route

C. Isolation and Quarantine Precautions

1. Worker protection plan to include:

a. Written infection-prevention program

b. Hazard evaluation and worker communication procedures

c. Training requirements for workers

d. Infection-prevention methods (e.g., personal protective equipment, work practices, housekeeping)

e. Medical surveillance and medical assessment and treatment of workers

2. Physical security procedures of quarantine area

3. Disinfection procedures for apparel, supplies, equipment, waste, etc., and disposal of remains of dead animals

4. Description of caging and room arrangement

5. Description of procedures to be used to assure the integrity of the isolation of each lot of animals in the quarantine unit

6. Record-keeping and reporting procedures

D. Procedures for testing of quarantined animals

1. Testing at entry into quarantine

2. Testing prior to release from quarantine

3. Record-keeping and reporting procedures

4. Description of laboratory methodology and laboratory to be used

5. Quarantine decision logic if positive serology or seroconversion occurs

6. Post mortem procedures for animals dying during quarantine

E. Such additional information as the importer feels will be useful in reviewing the plan

The Director, CDC, may request clarification or additional information, if needed.

DRAFT

[FR Doc. 90-11322 Filed 5-15-90; 8:45 am]
BILLING CODE 4160-18-C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3081]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested person are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 9, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Reporting Requirements Associated With 24 CFR 203.508 and 235.1001—Providing Information.

Office: Housing.

Description of the Need for the Information and its Proposed use: Mortgagees are required to provide homeowners with the amount of interest paid and taxes disbursed from the escrow account for income tax purposes. For section 235 mortgages, lenders are required to provide the interest accounting in such a way as to allow the homeowner to easily deduct the amount of subsidy the Department paid on behalf of the homeowner.

Form Number: Reg. 203.508, 235.1001.

Respondents: Businesses Or Other For-Profit.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Annual Reporting	12,000		1		.25		3,000

Total Estimated Burden Hours: 3,000.

Status: Extension

Contact: Ann M. Sudduth, HUD (202) 755-7330. Scott Jacobs, OMB, (202) 395-6880.

Dated: May 9, 1990.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Local Government Response to Review of Application, FR-1896.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: Local governments are required to review applications for housing assistance funds for various HUD programs to assure that the housing assistance funds are being used to meet a locality's HAP Plan.

Form Number: None.

Respondents: State Or Local Governments.

Frequency of Submission: Other.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	1,850		1		1		1,850

Total Estimated Burden Hours: 1,850.
Status: New.
Contact: Nancy Chisholm, HUD, (202) 755-6713. Scott Jacobs, OMB, (202) 395-6880.

Dated: May 9, 1990.

[FR Doc. 90-11308 Filed 5-15-90; 8:45 am]
BILLING CODE 4310-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-90-3068; FR-2779-N-01]

Nehemiah Housing Opportunity Grants Program Notice of Fund Availability

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability.

SUMMARY: Title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) established the Nehemiah Housing Opportunity Grants Program (NHOP). Under NHOP, HUD is authorized to make grants to nonprofit organizations to enable them to provde loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with a HUD-approved program. On May 22, 1989, HUD published a final rule establishing the requirements for NHOP. (54 FR 22248). In this notice, HUD announces the availability of $25.2 million in funds appropriated for NHOP in the Housing and Urban Development-Independent Agencies Appropriations Act, 1990 (Pub. L. 101-144 approved November 9, 1989), and solicits applications for assistance. These funds will be available for obligation.

DATES: *Effective Date:* May 16, 1990.
Application Date: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Morris E. Carter, Director, Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, room 9272, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 755-6720. Hearing or speech-impaired individuals may call HUD's TDD number (202) 755-3939. (These telephone numbers are not toll-free.) Application packages (request for grant application) may be obtained at the above address.

SUPPLEMENTARY INFORMATION:

The information collection contained in this NOFA has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0385.

A Finding of No Significant Impact with respect to the environment has been made on the issuance of this Notice in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. 42 U.S.C. 4332. The Finding of No Significant Impact is available for the inspection during regular business hours (7:30 am to 5:30 pm weekdays) in the Office of the Rules Docket Clerk, room 10276, at the address listed above.

The Catalog of Federal Domestic Assistance program number is 14.179.

A. Background

Title VI of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) established the Nehemiah Housing Opportunity Grants Program (NHOP). Under NHOP, HUD is authorized to make grants to nonprofit organizations to enable them to provide loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with a HUD-approved program. The loans to the families must be in accordance with the following criteria: (1) They may not exceed $15,000; must bear no interest; (2) they must be secured by a second mortgage held by the Secretary; and (3) must be repayable to the Secretary upon the sale, lease, or transfer of the property. On May 22, 1989, HUD published a final rule establishing the requirements for NHOP at 54 FR 22248. This final rule became effective on July 13, 1989.

In the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1990 (Pub. L. 101-144, approved November 9, 1989), the Congress appropriated $25.2 million for NHOP. These funds will be available for obligation on July 16, 1990. This notice announces the availability of the $25.2 million for NHOP and solicits applications for the use of these funds. The application procedures and filing deadlines are set forth in paragraph B below.

B. Applications Procedures

An application package (request for grant application) describing the information that applicants for NHOP assistance must submit will be made available to the public on or after May 16, 1990. The application package will be provided upon the written request of any party made to: Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9272, 451 Seventh Street, SE., Washington, DC 20410. Applications must be submitted on the forms prescribed by HUD and must be hand delivered and received, or postmarked, no later than July 16, 1990.

Following the expiration of the July 16, 1990 deadline, HUD Headquarters will review, rate and rank applications consistent with the procedures announced in the final rule. Applicants awarded a NHOP grant will be notified of their selection as soon as practicable following the completion of the selection process.

C. Selection Procedures

In accordance with 24 CFR 280.220(d), HUD announces that the maximum number of points that may be awarded under each of the ranking criteria are:

1. Contributions of land in accordance with § 280.220(b)(1)—20 points.

2. Other contributions in accordance with § 280.220(b)(2)—15 points. Under this criterion, applicants that will receive non-Federal financial and other contributions under a State-designated enterprise zone program will be awarded additional points. HUD has decided to award an additional two points to such applications. Accordingly, the maximum number of points that may be awarded under this criterion to an applicant that will not receive contributions under a State-designated enterprise zone program is 13 points. The maximum number of points that may be awarded to an applicant that will receive such contributions is 15 points.

3. Cost effectiveness in accordance with § 280.220(b)(3)—15 points.

4. Neighborhood blight in accordance with § 280.220(b)(4)—20 points.

5. Construction cost in accordance with § 280.220(b)(5)—15 points.

6. Local resident involvement in accordance with § 280.220(b)(2)—15 points.

Additionally, HUD intends to use the appropriate quarterly local cost multipliers listed in the Residential Cost Handbook published by Marshall and Swift Publication Company to adjust for the construction cost between market areas as required under the ranking criteria in § 280.220(b)(3) and (b)(5).

Authority: Section 611 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 23, 1990.

C. Austin Fitts,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 90-11309 Filed 5-15-90; 8:45 am]

BILLING CODE 4210-27-M

Office of Environment and Energy

[Docket No. I-90-155]

Intended Environmental Impact Statement; Benderson MegaMall Development, Niagara Falls, NY

The Department of Housing and Urban Development gives notice that the City of Niagara Falls, New York intends to prepare an Environmental Impact Statement (EIS) for the development of a Factory Outlet MegaMall as described in the appendix to this notice. This notice is in accordance with regulations of the Council on Environmental Quality under its rule (40 CFR part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific persons or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This notice shall be effective for 1 year. If 1 year after the publication of the notice in the **Federal Register** a Draft EIS has not been filed on a project, then the notice for that project shall be cancelled. If a Draft EIS is expected more than 1 year after the publication of the notice in the **Federal Register** then a new and updated notice of intent will be published.

Dated: May 8, 1990.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix

The City of Niagara Falls, New York (City) intends to prepare an Environmental Impact Statement (EIS) on the project described below and hereby solicits comments and information that should be considered in the EIS. Comments are requested from Federal, State and local agencies, and from persons that may be affected by the proposed development.

Description

The proposed project involves a cooperative effort by the City and the Benderson Development Corporation, and will use Federal, State, local and private funds. The site proposed for the project is located between Niagara Street on the North and Buffalo and Erie Avenues on the South, and between the Quay Street Extension on the West and Portage Road on the East. The project covers about 100 acres and the construction of approximately 1.4 million square feet of commercial space. The project will involve the demolition of approximately 275 improved properties and the relocation of 98 homeowners, 250 residential tenants, and 45 commercial uses. Further description of the project will be presented and discussed at a formal scoping meeting.

Need

The City has decided to prepare the EIS becasue it is anticipated that it will have a significant environmental impact on the site and the general vicinity. The impact of the necessary relocation is considered to be significant. During the construction and operation, the proposal will attract large numbers of people. Safe and efficient transportation of these people will necessitate consideration of existing and future traffic and mass transportation patterns and parking needs. Consideration of noise, air quality hazardous waste and the effects on historical and archaeological resources will have to be assessed.

Alternatives

At this point relevant alternatives to the project are perceived as:

(1) Rejection of the project as proposed; (2) Accept the project as proposed; (3) Development of another use for this site; (4) Differing scales of development; (5) Employ mitigation or eliminate potential adverse impacts; (6) Alternative sites; and (7) Adopt a "no build" alternative.

Scoping

This notice is part of the process for determining the scope of the issues to be addressed in the EIS, for identifying data and significant environmental issues, and for identifying cooperating agencies. To assist in this scoping process, a public scoring meeting will be held in the City Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York 14302 on May 23, 1990 at 7 p.m. All interested agencies, groups and persons who are unable to attend the public scoping meeting are invited to submit written comments with respect to the proposed scope of the EIS. Such comments, to be considered, should be received on or before 21 days after date of this notice.

Contact Person

Mr. David Brooks, Director, Environmental Services Department, City of Niagara Falls, 745 Main Street, Niagara Falls, New York, 14302. Telephone: (716) 286-4466.

[FR Doc. 90-11310 Filed 5-15-90; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. I-90-156]

Intended Environmental Impact Statement; No. 8 School Replacement Project, Rochester, NY

The Department of Housing and Urban Development gives notice that the City of Rochester, NY intends to prepare an Environmental Impact Statement (EIS) for the construction of a new elementary school to replace No. 8 school as described in the appendix to this notice. This notice is in accordance with regulations of the Council on Environmental Quality under its rule (40 CFR part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interest should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This notice shall be effective for 1 year. If 1 year after the publication of the notice in the **Federal Register** a Draft EIS has not been filed on a project, then the notice for that project shall be cancelled. If a Draft EIS is expected more than 1 year after the publication of the notice in the **Federal Register** then a new and updated notice of intent will be published.

Dated: May 8, 1990.

Richard H. Brown,

Director, Office of Environment and Energy.

Appendix

The City of Rochester, NY (City) intends to prepare an Environmental Impact Statement (EIS) on a project described below and hereby solicits comments and information for consideration in the EIS from affected Federal, State and local agencies; any affected Indian tribes; and other interested person.

Description

The proposed project is the new construction of a public elementary school to house approximately 800 pupils in grades kindergarten through 5. The new school will replace the Rochester City School District's existing No. 8 School located at 253 Conkey Avenue, which is the oldest (c.1894) school presently in use.

New York State standards require an 11 acre site for this type of facility. The new school site will be located in the same general area as the existing No. 8 School. A 1991 construction start is anticipated, with occupancy by Fall, 1993.

Federal funding for the project is expected to be from the Community Development Block Grant Program. The project cost is estimated at $10.6 million.

Need

The decision to prepare an EIS has been based upon the project's potential impacts upon traffic, historic resources, open space and neighborhood character. The project will also result in the displacement of existing occupants from the selected site. In addition to the subject project, the Rochester City School District has proposed construction to two additional new schools in the City's northeast sector and the cumulative impacts of all three projects may be significant. It is also the policy of the NYS Dept. of Education to require the preparation of an EIS for all new schools.

Alternatives

Anticipated alternatives to be considered include:

1. No action;
2. Proposed action/preferred alternative;
3. Site locations;
4. Site size and configuration; and
5. Appropriate mitigation measures.

Scoping

Responses to this notice will be used to:

1. Determine significant environmental issues;
2. Identify data which the EIS should address; and
3. Identify agencies and other parties which will participate in the EIS process and the basis for their involvement.

A *Scoping Meeting* will be conducted on June 5, 1990, at 7 p.m. and will be held at No. 8 School, 253 Conkey Avenue, Rochester, New York.

Comments

Comments should be sent within fifteen days of publication of this notice to Robert M. Barrows, Office of Planning, City Hall Room 125–B, 30 Church Street, Rochester, New York 14614: telephone (716) 428–6924.

[FR Doc. 90–11311 Filed 5–15–90; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–970–00–4120–14–2410, KYES 41395]

Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Emergency Coal Lease Application KYES 41395

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public comment.

SUMMARY: The Bureau of Land Management requests public comment on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The land included in Emergency Coal Lease Application KYES 41395 is located in Kentucky Ridge State Forest, Bell County, Kentucky and is described as follows:

Part of Tract–1101–A

(Metes and Bounds)

Cairnes Coal Company, Inc. of Middlesboro, Kentucky filed the above application for underground mining of the coal reserves. The Federal Government owns 75 percent of the coal reserves and the Commonwealth of Kentucky owns 25 percent.

There are three coal seams: Hignite, Poplar Lick and Buckeye Springs. The weighted coal average for the quality of the coal on the tract is as follows:

1. 4,335.500 tons of recoverable coal
2. 11,450 BTU's per pound
3. 21.5 Ash
4. 1.7 Moisture
5. 1.16 Sulphur

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract.

In addition, notice is also given that a public hearing will be held on Monday, June 18, 1990 on the environmental assessment, the proposed sale, the fair market value, and the maximum economic recovery of the proposed lease tracts. Oral comments at this meeting will be limited to five minutes per person.

DATES: Written comments must be received on or before June 15, 1990.

ADDRESSES: The public hearing will be held on Monday, June 18, 1990 at 5:30 p.m., Bert T. Combs Forestry Building, One-quarter Mile South of Pineville, Kentucky on U.S. 25 East.

FOR FURTHER INFORMATION CONTACT: For more complete data on this tract, please contact Ida V. Doup at (703) 461–1460, at the Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

SUPPLEMENTARY INFORMATION: In accordance with the Federal coal management regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secrtary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Eastern States Office, at the above address, in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Eastern States Office, at the above address, during regular business hours (7 a.m. to 5 p.m.) Monday through Friday, except Federal holidays. Comments should be sent to the Bureau of Land Management, Eastern States Office, at the above address, and should address, but not necessarily be limited to, the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;
2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts of the environmental; and

3. Methods of determining the fair market value of the coal to be offered.

The coal characteristics given above may or may not change as a result of comments received from the public and changes in market conditions that occur between now and the time at which final economic evaluations are completed.

Terry L. Plummer,

Acting State Director.

[FR Doc. 90-11374 Filed 5-15-90; 8:45 am]

BILLING CODE 4310-GJ-M

[AZ-020-00-4212-13; AZA-24412]

Realty Action Exchange of Public Land; Pima County, AZ; Correction

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Exchange of public land; Pima County, AZ.

SUMMARY: The legal description in the notice of realty action published on Thursday, March 8, 1990 in **Federal Register** document 90-5314, page 8610 is corrected as follows:

1. Line 10 reads sec. 21: NE¼, S½.
   Correct to read sec. 21: NE¼, S½.
2. Line 13 reads sec. 17: SW¼ (less patented mining claims, SE¼ (less patented mining claim).
   Correct to read sec. 17: lots 1, 2, and 3, SW¼SW¼.
3. Line 14 reads Comprising 2,761.8 acres, more or less.
   Correct to read Comprising 2,801.8 acres, more or less.

As the first line under T. 18 S., R. 10 E.:
Add sec. 1: SW¼SW¼.

Dated: May 4, 1990.

Henri R. Bisson,

District Manager.

[FR Doc. 90-11316 Filed 5-15-90; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

Delaware Water Gap National Recreation Area Citizens Advisory Commission; Meetings

AGENCY: National Park Service; Delaware Water Gap National Recreation Area Citizens Advisory Commission.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the date of the Delaware Water National Recreation Area Citizens Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act.

DATES: June 9, 1990.

TIME: 9 a.m.

LOCATION: Sussex County Vo-Tech, McNiece Auditorium, Rt. 94, Sparta, New Jersey 07871.

DATES: August 11, 1990.

TIME: 9 a.m.

LOCATION: Pocono Environmental Education Center, R.D. #2, Box 1010, Dingmans Ferry, PA 18328.

AGENDA: The agenda will be devoted to organizational activities, establishment of operating procedures, future meeting schedules, and the identificaiton of topics of concern. An opportunity for public comment to the Commission will be provided.

FOR FURTHER INFORMATION CONTACT: Richard G. Ring, Superintendent; Delaware Water Gap National Recreation Area Bushkill, PA 18324; 717-588-2435.

SUPPLEMENTARY INFORMATION: The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100-573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the managment and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 90-11348 Filed 5-15-90; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area; General Management Plan Amendment of the Presidio of San Francisco; Intention To Prepare an Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service is preparing an environmental impact statement to assess the impacts of proposals and alternatives, for the future management of the Presidio of San Francisco, to be set forth in an amendment to the General Management Plan for the Golden Gate National Recreation Area. This action is in response to the National Park Service's pending assumption of the management responsibility for the Presidio after the U.S. Army vacates the area in accordance with the Base Closure and Realignment Act of 1989.

Five public scoping meetings will be held between May 15 and June 2, 1990, in San Francisco, San Rafael, Oakland and Redwood City, California. The specific times and locations of these scoping sessions was announced in the **Federal Register**, Vol. 55, No. 75, of April 18, 1990, page 14486. Also, statements of issues and concerns will be accepted through July 18, 1990. In addition, planning guidelines for the Presidio have been prepared to guide the scoping and these may be obtained from the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123 or telephone (415) 556-4484. The Staff Assistant will also be able to provide further information on the scoping meetings and, after July 20, 1990, provide a transcript of the meetings. Comments on issues and concerns should be addressed to the Presidio Planning Team, National Park Service, Bldg. 277 Crissy Field, Presidio of San Francisco, San Francisco, CA 94129.

The responsible official is Stanley Albright, Regional Director, Western Region, National Park Service. The draft plan and environmental impact statement are expected to be available for public review by December, 1991. The final plan and environmental statement and Record of Decision are expected to be completed approximately one year later.

Dated: May 4, 1990.

Stanley Albright,

Regional Director Western Region.

[FR Doc. 90-11390 Filed 5-15-90; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-455

(Preliminary)]

Certain Laser Light Scattering Instruments and Parts Thereof From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Japan of certain laser light scattering instruments (LLSIs) and parts thereof,[3] provided for in subheadings 9027.30.40 and 9027.90.40 of the Harmonized Tariff Schedule of the United States (LLSIs were previously provided for under item 712.49 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 19, 1990, a petition was filed with the Commission and the Department of Commerce by Wyatt Technology Corp., Santa Barbara, CA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain laser light scattering instruments and parts thereof from Japan. Accordingly, effective March 19, 1990, the Commission instituted preliminary antidumping investigation No. 731-TA-455 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. Interntional Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 23, 1990 (55 FR 10848). The conference was held in Washington, DC, on April 11, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

By Order of the Commission.

Issued: May 11, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-11366 Filed 5-15-90; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Chairman Brunsdale and Vice Chairman Cass dissenting.

[3] The products covered by this investigation are laser light scattering instruments and parts thereof from Japan that have classical measurement capabilities, whether or not also capable of dynamic measurements. The following parts are included in the scope of the investigation when they are manufactured for use only in a LLSI: Scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches.

[Investigation No. 731-TA-456

(Preliminary)]

Phototypesetting and Imagesetting Machines and Subassemblies Thereof From the Federal Republic of Germany

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Federal Republic of Germany of phototypesetting and imagesetting machines and subassemblies thereof,[2] provided for in subheadings 8442.10.00 and 8442.40.00 of the Harmonized Tariff Schedule of the United States (previously classified in item 668.25 and reported under items 668.2520 and 668.2540 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 20, 1990, a petition was filed with the Commission and the Department of Commerce by Varityper, Inc., East Hanover, NJ, and Tegra, Inc., Billerica, MA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of phototypesetting and imagesetting machines and subassemblies thereof from the Federal Republic of Germany. Accordingly, effective March 20, 1990, the Commission instituted preliminary antidumping investigation No. 731-TA-456 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 28, 1990 (55 FR 11448). The conference was held in Washington, DC, on April 11, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 4, 1990. The views of the Commission are contained in USITC Publication 2281 (May 1990), entitled "Phototypesetting and imagesetting machines and subassemblies thereof from the Federal Republic of Germany: Determination of the Commission in Investigation No. 731-TA-456 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 8, 1990.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-11365 Filed 5-15-90; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] For purposes of this investigation, the term "phototypesetting and imagesetting machines and subassemblies thereof" refers to phototypesetting and imagesetting machines and certain subassemblies of such machines, consisting of hardware and dedicated software capable of producing high-resolution (600 or more dots per inch) type and/or images on a photographic medium, either film or paper. The photographic medium output permits a high quality of final printed output. This output serves the needs of various users for high-resolution printing and publishing. Included in the hardware are image controllers/processors, image recorders, imagesetters and phototypesettings.

Image controllers/processors are sophisticated computers that are capable of manipulating text and graphics in a manner that allows them to be output on a page of photographic medium. Computer codes are received from a front-end device (computer workstation) and are rasterized (i.e., converted into a pattern of on and off pulses that create images or characters). These rasterized patterns/codes can be received by various output devices for transfer to the photographic media. Phototypesetters and imagesetters create graphic and text output on photosensitive media (paper or film) by scanning a laser beam across the media. As each scans, it turns the laser on and off to create tiny light spots. When these spots hit the photosensitive media, the exposure creates tiny black dots called pixels.

The subassemblies included in the scope of the investigation are limited to customized printed circuit board assemblies for the equipment operating system and for compressing data, raster image processor assemblies, and laser image and optical assemblies. Some subassemblies may be classified as parts. Furthermore, the subassemblies included are not capable of being used for products other than phototypesetting and imagesetting machines.

[Investigation No. 337-TA-310]

Certain Pyrethroid and Pyrethroid-Based Insecticides; Decision Not To Review Initial Determination Amending Investigation To Terminate Respondent

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) in the above-captioned investigation amending the notice of investigation to terminate ICI Agricultural Products as a respondent.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1098.

SUPPLEMENTARY INFORMATION: On April 17, 1990, the ALJ issued an ID granting a motion by respondents Imperial Chemicals Industries, PLC and ICI Americas Inc. to terminate ICI Agricultural Products as a respondent. ICI Agricultural Products is an unincorporated business unit of ICI Americas Inc. No petitions for review of the ID were filed and no government agency comments were submitted.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53 (h).

Copies of the ID 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 202-252-1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

Issued: May 8, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-11363 Filed 5-15-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-435 (Final)]

Certain Steel Pails From Mexico

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Mexico of certain steel pails,[2] provided for in subheadings 7310.21.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 640.30 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 15, 1989, following a preliminary determination by the Department of Commerce that imports of certain steel pails from Mexico were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 6, 1989 (54 FR 50445). The hearing was held in Washington, DC, on March 29, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 7, 1990. The views of the Commission are contained in USITC Publication 2277 (May 1990), entitled "Certain Steel Pails from Mexico: Determination of the Commission in Investigation No. 731-TA-435 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 8, 1990.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-11364 Filed 5-15-90; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel with a volume (capacity) of 1 to 7 gallons, an outside diameter of 11¼ inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31668]

Union Pacific Railroad Co.—Trackage Rights Exemption; Burlington Northern Railroad Co.; Exemption

The Burlington Northern Railroad Company has agreed to grant local trackage rights to Union Pacific Railroad Company between mileposts 57.26 and 59.0, at Edgar, Clay County, NE, a distance of 1.74 miles. The trackage rights were to have become effective on or after May 3, 1990.

This notice is filed under 40 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc. Lease and Operate, 360 I.C.C. 653 (1980).

Dated: May 4, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-11185 Filed 5-15-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Immigration Reform and Control Act; Employment Discrimination; Task Force Report

Pursuant to section 101 of the Immigration Reform and Control Act (IRCA), 8 U.S.C. 1324a(k), the Attorney General, Chairman of the Equal Employment Opportunity Commission, and Chairman of the Civil Rights Commission have convened a Task Force. The purpose of the Task Force is

to report to Congress on recommendations for deterring or remedying discrimination which may have resulted from the imposition of employer sanctions under the Act.

The Task Force is interested in receiving a broad range of views concerning this topic. In particular, information bearing on the nature and extent of employment discrimination against persons who look or sound foreign, and noncitizens, and suggestions on remedying or deterring such discrimination would assist the Task Force address its mandate.

All interested individuals or organizations are invited to submit their views in writing by June 18, 1990, to: John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, 10th and Pennsylvania Avenue NW., room 5643, Washington, DC 20530.

John R. Dunne,

Assistant Attorney General, Civil Rights Division, U.S. Department of Justice.

[FR Doc. 90-11376 Filed 5-15-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Employee Turnover and Job Openings Survey

AGENCY: Office of the Secretary, Labor.

ACTION: Expedited review under the Paperwork Reduction Act.

SUMMARY: The Bureau of Labor Statistics, Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C., chapter 35, 5 CFR part 1320 (53 FR 16618, May 10, 1988)), is submitting for clearance the Employee Turnover and Job Openings Survey. This pilot project will be used to assess the feasibility of collecting employee turnover and job openings data from private employers. Such data could be a vital part of a system of determining labor shortages and contribute to general economic analysis.

DATES: BLS has requested an expedited review of this submission under the paperwork Reduction Act; this OMB review has been requested to be completed by June 15, 1990.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the Employee Turnover and Job Openings Survey should be directed to Paul E. Larsen, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210 ((202) 523-6331). Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395-6880).

Any member of the public who wants to comment on the information collection package which has been submitted to OMB should advise Mr. Larsen of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics.

Employee Turnover and Job Vacancy Survey.

Form #	Affected public	Respondents	Frequency	Average time per response
BLS-ETJO1	Business or other for-profit; Small businesses or organizations.	2494	Twice	20 minutes.
BLS-ETJO1	As above	75 (Operations test)	Once	20 minutes.
BLS-ETJO1	As above	425 (Response analysis survey)	Once	12 minutes.
BLS-ETJO2	As above	225	Once	45 minutes.

Response is voluntary.
5713 Total responses.
1941 Total hours.

Signed at Washington, DC, this 6th day of May, 1990.

Paul E. Larsen,

Departmental Clearance Officer.

A. Justification

1. Background

The Report of the Committee on Appropriations of the Senate on the FY 1990 appropriation for the Department of Labor (H.R. 2990) directs the Department to earmark funds to "develop a methodology to annually identify national labor shortages". Other legislative initiatives (S. 358) have made it clear that shortages are to be determined by occupation. It has long been the position of the Bureau of Labor Statistics that labor shortages are most meaningfully understood when related to unfilled job openings.

This project seeks to evaluate the feasibility of full-scale collection of data on the extent of such occupational vacancies and other information that would be required to make the determinations envisioned by the Senate report. Just as there will always be a certain amount of unemployment, no matter how strong the demand, there will always be some vacancies no matter how adequate the supply. Thus, we need to think in terms not of simple levels of vacancies, but of vacancies unusually numerous relative to normal turnover, or which remain open for abnormally long durations, or which persist in the face of above average rates of growth in the wages paid to new hires. Therefore, BLS is seeking to obtain data on turnover, wages for new hires, and a breakdown of vacancies by the length of time they have remained open through this survey.

The project will operate in three distinct modes and generate cost estimates for each. A new survey instrument has been designed by the Bureau of Labor Statistics for administration by mail and computer-assisted telephone interview techniques from a laboratory setting in the Office of Employment and Unemployment Statistics. (See attachment 1.) The same instrument will be administered by a State employment security agency as test of the survey's sustainability in a Federal-State collection environment. Another instrument—a modified version of the successful Occupational Employment Statistics (OES) wage pilot—will be administered by another State to more carefully test aspects of collecting vacancy and turnover data in the context of an ongoing program. (See attachment 2.) All three modes will be evaluated by a response analysis survey (RAS) to assure that valid responses have been obtained.

The issues that vacancy data address go beyond the labor shortages concerns identified by the Senate Appropriations Committee. For example, the increasing visibility of structural change as an important determinant of the unemployment rate—that is, a growing mismatch between unemployed workers and vacant jobs due to more rapid shifts in the industrial composition of employment—can be better quantified by analysis of vacancy data.

From a policy perspective, high unemployment that reflects structural mismatches is likely to be associated

with greater upward pressure on wages than would be the case if joblessness reflected more a deficiency in aggregate demand. Thus, choosing an appropriate macroeconomic policy mix to achieve price stability and low unemployment depends critically on the sources of current levels of unemployment.

If vacancy statistics can be collected for smaller areas than the national scale mandated in the legislative report, several other issues can be addressed. In the same way that vacancy data help economists understand the source of fluctuations in the aggregate unemployment rate, information on job openings by region or State would be helpful for identifying the sources of regional variations in unemployment and understanding regional patterns of migration.

Public policymakers and research economists have long requested that the government provide vacancy data along with the turnover and duration information needed to make more meaningful analyses of them. Most recently, Professor Sar Levitan, in a report to the Joint Economic Committee, wrote, "An ongoing survey of job openings could shed light on the availability of jobs for the structurally unemployed and provide a timely warning of economic downturns." Levitan then cited a BLS feasibility study issued in 1981 that found that collection of statistically reliable vacancy data was possible, while also reporting the considerable difficulty and expense such a program would entail, given the data collection techniques of the times and rather diffuse program objectives.

This pilot survey seeks to discover if advanced data collection technologies and a more specific legislative mandate can lead to a more cost effective statistical program.

2. Uses of Information

The information obtained from this pilot survey will be used to assist the Secretary of Labor in reporting progress in developing methodologies for determining labor shortages. The data themselves will be of some interest, but the main results will be our assessment of the validity of the data collection concepts and methods and our estimates of the costs of implementing vacancy surveys on both the national level and Federal-State levels. The data we obtain will be cross tabulated in limited detail by occupation, industry, and establishment size.

3. Uses of Improved Information Technology

This survey will utilize computer-assisted data capture techniques to supplement a mail instrument that will be sent to three rotating panels of 1,000 firms. The rotation plan will involve a sample unit being in-sample one month, out-of-sample for two, and in-sample again for one month. Establishments that do not respond to the mail survey will receive a follow-up call by the computer-assisted data capture system, as will establishments whose responses are unclear. This approach will maximize response rates and accuracy.

4. Efforts To Identify Duplication

Official job vacancy statistics were collected by industry for a short time in the late 1960s and early 1970s as part of the Job Openings and Labor Turnover Statistics (JOLTS) program. The vacancy series was discontinued in 1973, in large measure because sufficient funds were not available to expand the program to the extent originally envisioned.

In the late 1970s, the Bureau executed a pilot study of the feasibility of collecting vacancy statistics by occupation at the State level. That study found that such a program was possible but that the task was difficult and expensive. A full-scale program was not implemented, primarily because of budget constraints.

Administrative records of job openings registered with the Employment Service are not an effective substitute for a scientifically collected survey of all openings. The most significant deficiency of the Employment Service records is the biases that may result from the employers' selection of jobs that they post at the public employment office.

The monthly index of help-wanted advertising is often used as a proxy for vacancies. There is reason to be concerned, however, that the help-wanted index may not always truly reflect the total number of vacancies. For example, affirmative action pressures have caused employers to be more likely to advertise vacancies today than in the past. Even more crucial is the fact that help-wanted advertising is only one form of active recruiting, and a series based exclusively on such an indicator excludes the larger, and perhaps more significant, unadvertised job market.

5. Reasons Existing Information Cannot Be Used

The most recent information on collecting data on vacancies, the result of a study conducted 10 years ago using very different data collection technologies than are available today, is dated. This project is intended to update and build on our earlier experiences and develop a new evaluation of the technical and financial feasibility of collecting vacancy data.

6. Minimizing the Burden of Small Establishments

This survey uses a stratified sample design. Under this design, establishments in larger size classes are sampled at a higher rate, while smaller establishments are sampled at a lower rate.

7. Consequence of Less Frequent Data Collection

This project will survey three 1,000-member panels twice each in a rotation pattern such that a reporter is in-sample one month, out two, and in-sample in a fourth month. At the end of six months, all data collection will be finished. If we do not implement the complete data collection procedures, we cannot evaluate our ability to collect vacancy data on a time-series basis.

8. Guidelines of CFR 1320.6

The survey will not violate any of the provisions of these guidelines.

9. Consultation With Outside Agencies Regarding the Availability of Data

The Bureau of Labor Statistics has consulted closely with its business and labor research advisory councils as we have developed this program. The business council include representatives from the Conference Board and Manpower, Inc., two private concerns that collect and publish indicators that are somewhat related to job vacancies. To the best of their knowledge, the data we will collect through this survey are not available elsewhere.

The labor council includes representatives from the research departments of a wide variety of trade and industrial unions. The Labor Research Advisory Council has expressed doubts about the feasibility of collecting vacancy data.

Other organizations that have been consulted include the Interstate Conference of Employment Security Agencies and the research and analysis sections of several State employment security agencies.

10. Confidentiality

The Commissioner's Order, "Confidential Nature of Bureau Records," explains the Bureau's policy on confidentiality: "In conformance with existing law and Departmental

regulations, it is the policy of the Bureau of Labor Statistics that data collected or maintained by, or under the auspices of, the Bureau under a pledge of confidentiality shall be treated in a manner that will assure that individually identifiable data will be accessible only to authorized persons and will only be used for statistical purposes made known in advance to the respondent". All authorized persons have pledged to comply with the Bureau's policy of strict confidentiality.

11. Sensitive Questions

Questions about personnel turnover, vacancies, and wages are all sensitive issues to employers. Most businessmen would regard knowlege of a competitor's vacancy level and the wages accepted by new hires as valuable strategic inputs, and thus are sensitive about revealing such data about their own operations. Employers would also be sensitive to the possibility of labor organizations obtaining these data about individual establishments. Employers are also uneasy about the possibility that individual vacancy data would be transmitted to other government agencies, especially the Federal and State employment services.

The most valuable tool at our disposal for overcoming the resistance these concerns might engender is the Bureau's longstanding reputation for integrity in maintaining the confidences entrusted to it by respondents. In addition, the questionnaire itself will be reviewed utilizing cognitive research techniques, including using a small test panel of respondents to measure their reactions.

12. Estimated Cost of the Survey

	FY1990	FY1991	Total
Cost to federal government:			
Personnel	$61,962	$27,047	$89,009
Equipment/supplies	23,500	0	23,500
LMI contract	15,000	0	15,000
Mail, travel, print	9,070	910	9,980
Computer	15,000	18,000	33,000
Contract labor	112,119	0	112,119
Administration	35,498	6,894	42,392
Total	272,149	52,851	325,000
Cost to respondents:			
Number of staff hours			1941
Hourly rate (Median hourly wage of mid-level official responding to survey. Derived from PATC survey.)			$14.71
Total			$28,552.11

Cost to respondents:	
Number of staff hours	1941
Hourly rate (Median hourly wage of mid-level official responding to survey. Derived from PATC survey.)	$14.71
Total	$28,552.11

13. Estimated Reporting Burden

(All estimates assume a 75 percent response rate. Response to the Employee Turnover and Job Openings Survey (BLS–ETJO1) is expected to average 20 minutes, the OES Supplement (BLS–ETJO2) is expected to take 3/4 of an hour beyond the time already budgeted for the standard OES, and the Response Analysis Surveys are expected to take 12 minutes per response.)

BLS–ETJO1:	
Operations test (75 respondents × 20 min.).	25 hours.
National (2138 × 2 × 20 min.).	1,425.
Maine (356 × 2 × 20 min.).	237.
RAS (425 × 12 min.)	75.
BLS–ETJO2:	
(OES Supplement) (225 × 45 min.).	169.
Total	1,941 hours.

The ICB estimate was 2,000. We are requesting 1,941 due to a change in the technique used to make the estimate.

14. Change in Burden

This is a pilot project and thus the addition is a burden increase.

15. Plans for Tabulation, Statistical Use, and Publication

The survey based on the attachment 1 questionnaire will be conducted in June–December 1990, pending OMB clearance. The survey based on attachment 2 will be conducted in June–October 1990. Data will be tabulated and analyzed between January and April 1991, and a report will be completed in July 1991. The focus of the report will be on operational and cost measure, but limited tabulations of vacancy counts for occupations and industries will be produced.

B. Collections of Information Employing Statistics Methods

1a. Universe

The universe for this survey will consist of about 1.5 million of the establishments on the Bureau of Labor Statistics' Universe Data Base System frame (reference date first quarter 1989). This universe will cover establishments in the 50 States and the District of Columbia with 1 or more employees; with private ownership; and with Standard Industrial Classification (SIC) codes Oil and Gas Extraction (SIC 13), Special Trade Contractors (SIC 17), Electrical and Electronic Equipment Manufacturing (SIC 36), Motor Freight and Warehousing (SIC 42), Wholesale Trade-Machinery (SIC 508), Eating and Drinking Places (SIC 58), Banking (SIC 60), and Hospitals (SIC 806). Due to limitations on time and sample size, the scope of the survey was limited to only one SIC from each of the major industry groups. The only exception is in the variation being conducted in the State of Georgia. For Georgia, a supplemental survey for selected 3-digit industries within Business Services (SIC 73) will be conducted in conjunction with the Occupational Employment Statistics (OES) 1990 Wage Pilot Survey. The sampling frame for the supplemental survey will be the Unemployment Insurance (U.I.) Name and Address File maintained by Georgia's State Employment Security Agency (SESA), with a second quarter 1989 reference date.

b. Sample Size

Most surveys are designed to produce reliable estimates of the characteristics that are to be measured. Unlike most other surveys, the objective of this pilot Employee Turnover and Job Openings

Survey are: (1) to assess whether it is feasible to collect reliable vacancy and labor turnover data on a frequent time interval (e.g., monthly) by occupation; and (2) to provide separately the cost estimates for implementing a national level program and a Federal-State program, which is necessary to produce estimates by State and Region.

The probability sampling plan used in this survey is designed to measure the cost of collecting data for small (1–49 employee), medium (50–249) employees, and large (250 and more employees) establishments by alternative methods i.e., Computer Assisted Telephone Interviews (CATI) and mail. This cost will be estimated for a National program only, Federal-State cooperative program, with the Employee Turnover and Job Openings Survey being a new survey (test State Maine), and in the context of an ongoing program (test State Georgia). The sample sizes necessary to achieve this objective are calculated to be 3000 at the national level (excluding Maine), 500 for Maine, and 300 for Georgia.

It has been assumed that 5% of the selected sample will be lost due to units being out-of-business, out-of-scope, or nonmailable. The response rate for the remaining sample is expected to be 75%. Thus, approximately 2,100 of the units will provide usable data.

As this is a new survey, a sample size of 100 is also necessary to perform an operations test prior to conducting the survey. In addition, a sample size of 500 is required to conduct a response analysis survey (RAS) for the purpose of assessing the quality of the respondent understanding and interpretation of the data items in the questionnaire. The response rate for the RAS is expected to be 85 percent.

2a. Sample Design

Three samples denoted as National, Maine, and Georgia will be selected. The National sample will not include any units from Maine. The National sample will be used to derive the cost of producing job vacancy, trunover, and other estimates at the National level. The Maine sample will be used for obtaining cost estimates at the Federal-State level with the Employee Turnover and Job Openings Survey as a new survey; while the Georgia sample will be used to assess the cost of conducting a vacancy survey as part of an ongoing OES Survey. For purposes of producing National estimates from the pilot survey, the National and Maine samples will be combined (with their appropriate weights). A detailed description of the three samples is given below.

For the National sample, the frame consisting of 49 States (excludes Maine) and the District of Columbia will be stratified by:

Establishment size: 1 to 49, 50 to 244, 250 employees or more; and

Industry: SIC 13, 17, 36, 42, 508, 58, 60 and 806

To each of the three size classes, 1000 units will be allocated. The 1000 units within each size class will be allocated in proportion to an SIC's employment within the class. For example, if SIC 58 constitutes 10 percent of the employment for small size class, then 100 units in this size class will be allocated to SIC 58.

Within each size class and industry, the units will be selected with equal probability. The units will be selected systematically with a random start. Prior to selection, the units within each size class and 2-digit SIC will also be sorted by ascending order of 4-digit SIC and within industry by State to permit additional implicit stratification.

For the pilot survey, the sample units will be divided into three equal monthly panels. The units will be in the sample one month, out two months, and then back in the sample one month (i.e. 1–2–1). Thus, each unit will be in the sample twice.

For the Maine sample, the procedures outlined for the National sample will be followed.

The Georgia sample is taken with the primary purpose of measuring cost of conducting a job vacancy survey as part of the OES program. For this sample, only selected 3-digit industries (SICs 731, 733, 734 and 737) in SIC 73 will be surveyed, as this is the only 2-digit industry that is within the scope of 1990 OES Wage Pilot Survey. Hence, the sample design will be the same as that for the regular OES Survey. After the units are selected, they will be divided into approximately three equal parts: one for the regular OES Survey, another for the OES Wage Pilot Survey, and the last one for the combined OES Wage and Job Vacancy Pilot Survey.

Unlike the National and Maine sample units, the data from the Georgia units will be collected only once.

b. Estimation Procedure

For each 2-digit industry, a probability design based estimator will be used to estimate occupational totals, proportions, and rates for the various characteristics of interest. Standard errors will be calculated for all the estimates.

c. Accuracy

As mentioned earlier, this survey is not designed to produce reliable estimates of characteristics of interest. Instead, its objectives are to measure the feasibility of collecting job vacancy and labor turnover data over time and the cost of collecting such data. However, the estimates of precision (standard errors, relative standard errors) will be used in designing future surveys more efficiently.

d. Problems

There are no unusual problems requiring specialized sampling procedures.

e. Frequency

This is a pilot survey.

3a. Response

To maximize the response rate for this survey, employers will be provided with a pledge of confidentiality, an explanation of the importance of the survey, and the need for volutnary cooperation. In addition, a followup mailing will be made to the nonrespondents to the initial mailing, and a CATI followup will be conducted for each nonrespondent to the mail portion of the survey.

b. Nonresponse Adjustment

Within each panel, a weighting class adjustment procedure will be used to adjust sample estimates for nonresponse.

c. Reliability

The Bureau will use probability sampling methodology in the design and implementation of the survey to control the sampling errors of the survey's esimates and, from the survey data, will calculate estimates of the sampling errors.

To control nonsampling errors, quality control procedures will be incorporated into the survey's design. These procedures will include CATI followup of all nonrespondents, and validation of all edit failures. In addition, a RAS will be administered to 500 respondents by CATI to verify and assess the quality of the reported data. The RAS data collection instrument will be drafted after the ETJOS form is pretested and finalized. Therefore, the RAS form will be provided to OMB at a later date. The 500 units selected for RAS will be distributed with equal probability across the three size classes, six months, and eight SICs.

4. Test

The survey's questionnaires were developed in the Bureau using cognitive design techniques and are being tested in nine establishments. After OMB clearance is received, the survey's

procedures and instruments will be operations tested using a sample of 100 establishments.

5. Statistical Responsibility

Alan Tupek, Chief, Statistical Methods Division, Office of Employment and Unemployment Statistics, is responsible for the statistical aspects of the survey. His telephone number is (202) 523-1694.

BILLING CODE 4510-24-M

Attachment 1.

Bureau of Labor Statistics
Employee Turnover and
Job Openings Survey

U.S. Department of Labor

DRAFT
APR 17 1990

We estimate that it will vary from 15 minutes to 4 hours to complete this survey including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this information. If you have any comments regarding these estimates or any other aspect of this survey, send them to the Bureau of Labor Statistics, Division of Management Systems (0000-0000), 441 G Street NW, Washington, D.C. 20212 and to the Office of Management and Budget, Paperwork Reduction Project (0000-0000), Washington, D.C 20503. Please DO NOT RETURN the questionnaire to either of these addresses. Use the enclosed postage paid envelope to return the completed questionnaire.

This report is authorized by law, 29, U.S.C.2. Your voluntary cooperation is needed to make the results of this survey comprehensive, accurate, and timely. **The information collected on this form by the Bureau of Labor Statistics will be held in confidence and will be used for statistical purposes only.**

Form Approved
O.M.B. No. 0000-0000
Approval expires: 00-00-00

EATING AND DRINKING PLACES

This form requests turnover and job openings information by occupation. **Please complete Sections I and III. Section II provides instructions for completing Section III.**

SECTION I – COVERAGE

a. TOTAL EMPLOYMENT

Enter the total number of persons on the payroll of the establishment covered in this report who worked during the pay period including June 12, 1990. _____

(Include full and part-time employees, salaried corporate officials and staff, persons on paid leave, and temporary employees. Exclude proprietors, partners of unincorporated firms, outside contractors and their employees, unpaid family workers, and persons on strike and on leave without pay.)

b. ESTABLISHMENT(S) COVERED

Please report only for the establishment(s) identified by the words "report for," on the address label. Our estimate of the establishment(s) employment is the number in the upper right corner of the address label. If this employment represents more than one location, how many? _____

(Some employers may receive more than one form and are asked to report separately for each establishment covered by the individual form.)

c. ESTABLISHMENT STATUS

If the establishment does not operate under your management for one of the following reasons, please indicate.

- ☐ Out-Of-Business
- ☐ Sold or Merged

New name and address:

_____

_____

d. AUXILIARY STATUS

Is this establishment engaged in supporting other establishments in the company? ☐ Yes ☐ No

If yes, please indicate:

- ☐ Central administrative office
- ☐ Research, development, or testing lab
- ☐ Storage (warehouse)
- ☐ Other (specify) _____

RETURN TO:
BUREAU OF LABOR STATISTICS
Room 0000, MAIL CODE 13
441 G STREET, NW
WASHINGTON, DC 20212

FOR ASSISTANCE CALL:

(Please change address if incorrect)

Office Use Only
Status
CM

IF QUESTIONS ARISE CONCERNING YOUR REPORT, WHOM SHOULD WE CONTACT?

Name	Title	Telephone ( )	Date

BLS-ETJO1

SECTION III: EMPLOYEE TURNOVER AND JOB OPENINGS SURVEY

Eating and drinking places

		Report for Month of June (Cols. 1 - 3)			Report for Last Business Day of June (Cols. 4 - 7)			
Occupational Dictionary No.	Occupations	(1) Number of separations (exclude temp. layoffs)	(2) Number of new hires (exclude recalls)	(3) Average hourly wage of new hires	(4) Number of job openings	(5) Number of job openings unfilled for: Less than 2 weeks	(6) 2 to 4 weeks	(7) More than 4 weeks
	TOTAL ALL OCCUPATIONS:							
10000	**Managerial and administrative occupations**							
13002	Financial managers							
13008	Purchasing managers							
15026	Food service and lodging managers							
19005	General managers and top executives							
19999	All other managers and administrators							
20000	**Professional, paraprofessional, and technical occupations**							
21114	Accountants and auditors							
22100	Engineers							
25102	Systems analysts, electronic data processing							

DO NOT COMPLETE SHADED AREAS.

EMPLOYEE TURNOVER AND JOB OPENINGS SURVEY
Eating and drinking places

		Report for Month of June (Cols. 1 - 3)			Report for Last Business Day of June (Cols. 4 - 7)			
Occupational Dictionary No.	Occupations	(1) Number of separations (exclude temp. layoffs)	(2) Number of new hires (exclude recalls)	(3) Average hourly wage of new hires	(4) Number of job openings	(5) Number of job openings unfilled for: Less than 2 weeks	(6) 2 to 4 weeks	(7) More than 4 weeks
25105	Computer programmers							
39999	All other professional, paraprofessional, and technical occupations							
40000	**Sales and related occupations**							
49011	Salespersons, retail							
49023	Cashiers							
49999	All other sales and related workers							
50000	**Clerical and administrative support occupations**							
51002	First-line supervisors and manager/supervisors, clerical and administrative support workers							
55108	Secretaries							
55305	Receptionists and information clerks							

DO NOT COMPLETE SHADED AREAS.

EMPLOYEE TURNOVER AND JOB OPENINGS SURVEY
Eating and drinking places

		Report for Month of June (Cols. 1 - 3)			Report for Last Business Day of June (Cols. 4 - 7)			
Occupational Dictionary No.	Occupations	(1) Number of separations (exclude temp. layoffs)	(2) Number of new hires (exclude recalls)	(3) Average hourly wage of new hires	(4) Number of job openings	(5) Number of job openings unfilled for: Less than 2 weeks	(6) 2 to 4 weeks	(7) More than 4 weeks
55308	Typists							
55321	File clerks							
55338	Bookkeeping, accounting, and auditing clerks							
55347	General office clerks							
56011	Computer operators, except peripheral equipment							
58023	Stock clerks, stockroom, warehouse, or storage yard							
59999	All other clerical and administrative support occupations							
60000	**Service occupations**							
63047	Guards and watch guards							
65002	Hosts and hostesses, restaurant, lounge or coffee shop							

DO NOT COMPLETE SHADED AREAS.

EMPLOYEE TURNOVER AND JOB OPENINGS SURVEY
Eating and drinking places

		Report for Month of June (Cols. 1 - 3)			Report for Last Business Day of June (Cols. 4 - 7)			
Occupational Dictionary No.	Occupations	(1) Number of separations (exclude temp. layoffs)	(2) Number of new hires (exclude recalls)	(3) Average hourly wage of new hires	(4) Number of job openings	(5) Number of job openings unfilled for: Less than 2 weeks	(6) 2 to 4 weeks	(7) More than 4 weeks
65005	Bartenders							
65008	Waiters and waitresses							
65014	Dining room and cafeteria attendants, and bartender helpers							
65017	Counter attendants, lunchroom, coffee shop, or cafeteria							
65021	Bakers, bread and pastry							
65026	Cooks, restaurant							
65028	Cooks, institution or cafeteria							
65032	Cooks, specialty fast food							
65035	Cooks, short order							
65038	Food preparation workers							
65041	Combined food preparation and service workers							

EMPLOYEE TURNOVER AND JOB OPENINGS SURVEY
Eating and drinking places

		Report for Month of June (Cols. 1 - 3)			Report for Last Business Day of June (Cols. 4 - 7)			
Occupational Dictionary No.	Occupations	(1) Number of separations (exclude temp. layoffs)	(2) Number of new hires (exclude recalls)	(3) Average hourly wage of new hires	(4) Number of job openings	(5) Number of job openings unfilled for: Less than 2 weeks	(6) 2 to 4 weeks	(7) More than 4 weeks
67002	Maids and housekeeping cleaners							
67005	Janitors and cleaners, except maids and housekeeping cleaners							
69999	All other service workers							
80000	**Production, construction, operating, maintenance, and material handling occupations**							
85132	Maintenance repairers, general utility							
87202	Electricians							
97105	Truck drivers, light, include delivery and route workers							
97117	Driver/sales workers							
99999	All other production, construction, operating, maintenance, and material handling workers							

DO NOT COMPLETE SHADED AREAS.

Attachment 2.

DRAFT

OCCUPATIONAL EMPLOYMENT SURVEY

DEFINITION BOOK NO.	OCCUPATIONAL TITLE	NUMBER OF EMPLOYEES IN SELECTED WAGE RANGES	A	B	C	D	E	F	G	TOTAL	Separations	New Hires	Current Job Openings
		Hourly	Under $6.51	$6.51 - 9.00	$9.01 - 11.50	$11.51 - 15.00	$15.01 - 20.50	$20.51 - 26.00	Over $26.00				
		Annual	Under $13,513	$13,513 - 18,708	$18,709 - 23,903	$23,904 - 31,176	$31,177 - 42,612	$42,613 - 54,036	Over $54,036				
108. 580993	ALL OTHER MATERIAL RECORDING, SCHEDULING, AND DISTRIBUTING WORKERS												
109. 599993	ALL OTHER CLERICAL AND ADMINISTRATIVE SUPPORT WORKERS												
	SERVICE												
110. 610083	HOUSEKEEPERS												
111. 610993	ALL OTHER SERVICE SUPERVISORS AND MANAGER/SUPERVISORS												
112. 630353	DETECTIVES AND INVESTIGATORS, EXCEPT PUBLIC												
113. 630473	GUARDS AND WATCH GUARDS												
114. 630993	ALL OTHER PROTECTIVE SERVICE WORKERS												
115. 650003	FOOD AND BEVERAGE PREPARATION AND SERVICE OCCUPATIONS												
116. 660083	NURSING AIDES, ORDERLIES, AND ATTENDANTS												
117. 660113	HOME HEALTH AIDES												
118. 670023	MAIDS AND HOUSEKEEPING CLEANERS												
119. 670053	JANITORS AND CLEANERS, EXCEPT MAIDS AND HOUSEKEEPING CLEANERS												

BLS-ETJ02

[FR Doc. 90-11298 Filed 5-15-90; 8:45 am]
BILLING CODE 4510-24-C

Agency Recordkeeping/Reporting; Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Reinstatement

Pension and Welfare Benefits Administration.

Summary Plan Description Requirements Under ERISA 1210-0039.

Other (5 or 10 year cycle depending on whether a plan is amended in initial 5 years).

Businesses or other for profit; non-profit institutions; small buinesses or organizations.

133,750 responses; 5,333,750 hours; 39.9 hours per response.

As requried by ERISA, this existing regulation provides plan administrators with the procedures and guidelines necessary to furnish plan participants and beneficiaries with Summary Plan Descriptions that clearly explain their rights and obligations.

Adoption of ERISA Class Exemptions for Purposes of FERSA

1210-0074.

On occasion.

Business or other for-profit.

1 response; 1 hour; 1 hour per response.

The adoption of these class exemptions under the Employee Retirement Income Security Act, for purposes of the Federal Employees Retirement System Act, permits fiduciaries with respect to the FERS Thrift Savings Fund to engage in certain transactions that would otherwise be prohibited under FERSA.

Signed at Washington, DC, this 10th day of May, 1990.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 90-11299 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-29-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issues during the period April 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm

TA-W-24,050; David Shroyer Dress Co., Shamokin, PA

TA-W-23,926; Brunswick Seat Co., East Brunswick, NJ

TA-W-24,095; Keystone General, Inc., Blue Ash, OH

TA-W-23,984; Lignotock Corp., Mt. Holly, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,020; Ford Electronics & Refrigeration Corp., Bedford, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,995; Penn Metal Fabricators, Inc., Ebsenburg, PA

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-24,023; Jerrold Subscriber System, Inc., North Kansas City, MO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,092; Great Lakes Color Printing, Dunkirk, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,093; General Motors Corp., Inland Fisher Guide, Trenton, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,098; Malden Mills Industries, Inc., Barre, VT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,101; Occidental Chemical Corp., White Springs, FL

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-23,940; J.B. Ross, Inc., New Brunswick, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,049; Dana Corp., Spicer Axle Div., Syracuse, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,081; American Tech Industries Paper Craft Subdivision, Lexington, KY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,096 and TA-W-24,097; Lindsey Completion Systems, Midland, TX and Oklahoma City, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,059; Lampson Fraser & Huth Corp. (Hudson's Bay Fur Sales), Carlstadt, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,086; Cleveland Rice Mill, Cleveland, MS

U.S. imports of rice are negligible.

TA-W-24,106; Rockwell International, New Castle, PA

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-24,088; D & J Sportswear, Beaverdale, PA

A certification was issued covering all workers separated on or after February 22, 1989.

TA-W-24,082; Ann's Ski Sportswear, Beaverdale, PA

A certification was issued covering all workers separated on or after February 22, 1989 and before January 31, 1990.

TA-W-24,044; Vickers, Inc., Traverse City, MI

A certification was issued covering all workers separated on or after January 1, 1990.

TA-W-24,045; B.W. Harris Manufacturing Co., Blue Island, MN

A certification was issued covering all workers separated on or after January 9, 1989 and before February 9, 1990.

TA-W-23,965; Bohn Engine & Foundry Div., Wicks Manufacturing Co., Holland, MI

A certification was issued covering all workers separated on or after February 1, 1989.

TA-W-23,883; North American Philips Corp., Philips Display Components Group., Emporium, PA

A certification was issued covering all workers separated on or after October 31, 1988.

TA-W-21,370; Midland Mud, Inc., Hays, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,406 and TA-W-21,406A; Core Laboratories, Inc., Dallas, TX and Magnolia, AR

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,437; JFP Energy, Inc., Houston, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before September 30, 1987.

TA-W-21,438; JFP Offshore, Inc., Houston, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before September 30, 1987.

TA-W-24,090; Gant Corp., Salesbury, MD

A certification was issued covering all workers separated on or after February 21, 1989.

TA-W-24,104; Petersburg Manufacturing, Cresson, PA

A certification was issued covering all workers separated on or after February 19, 1989 and before March 30, 1990.

TA-W-21,393; Acid Engineering, Inc., Andrews, TX

A certification was issued covering all workers separated on or after January 1, 1986.

TA-W-24,053 and TA-W-24,054; Eastland Woolen Mill, Inc., Clinton, ME and Orono, MI

A certification was issued covering all workers separated on or after January 7, 1990.

TA-W-24,047 and TA-W-24,047A; Calvert Coat Manufacturing Co., Inc., New York, NY and Middletown, NY

A certification was issued covering all workers separated on or after February 5, 1989 and before January 15, 1990.

TA-W-24,043; Admos Shoe Corp., Brooklyn, NY

A certification was issued covering all workers separated on or after February 8, 1989.

TA-W-24,079; Scantronic (USA), Inc., (Formerly Acron Corp), Lakewood, NJ

A certification was issued covering all workers separated on or after February 13, 1989.

TA-W-24,069; Performance Papers, Inc., Mills, C & D, Kalamazoo, MI

A certification was issued covering all workers separated on or after September 1, 1989 and before April 1, 1990.

TA-W-24,089; Fansteel, Inc., Fansteel Metals, Muskogee, OK

A certification was issued covering all workers separated on or after September 1, 1989 and before April 15, 1990.

I hereby certify that the aforementioned determinations were issued during the month of April 1990. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: May 8, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-11301 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Annual Status Report for Title II-A Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of revised annual status report for title II-A.

SUMMARY: The Department of Labor (Department) is issuing revised annual reporting requirements for programs under title II-A of the Job Training Partnership Act (JTPA). The revisions extend and update the reporting system in order to provide improved adjustments to the postprogram and revised youth standards, to more adequately identify difficult-to-serve portions of the JTPA population, and to

collect more detailed information on adult basic education and occupational skill attainments for use in developing appropriate performance measures.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Steven Aaronson, Chief, Adult and Youth Standards Unit, Telephone (202) 535-0687.

SUPPLEMENTARY INFORMATION: On January 5, 1990, proposed revisions to the Job Training Partnership Act (JTPA) Annual Status Report (JASR) for title II-A programs were published in the Federal Register. 55 FR 517. Interested parties were invited to send written comments through January 25, 1990. At the same time, the revisions were forwarded to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act. The purpose of this notice is to advise the system of the nature of the comments received and the final action taken pursuant to the OMB review.

A. Authority and Purpose of the JTPA Annual Reporting Requirements

Reporting instructions are necessary to comply with JTPA's provisions regarding the Secretary of Labor's (Secretary's) responsibility for setting performance standards and for recordkeeping and reporting as indicated below. Citations are to sections of JTPA.

■ Section 106—Performance Standards. This section directs the Secretary to prescribe standards for adult and youth programs under Title II-A. To set such standards, the Secretary must have data on performance. In addition, this section directs the Secretary to establish parameters within which Governors may vary standards for service delivery areas (SDAs) based on local economic factors, the characteristics of the population served, and the types of services provided. The Department of Labor's approach, which satisfies these criteria, requires data collection on those factors that have a significant effect on performance and vary sufficiently across SDAs to warrant an adjustment to standards.

■ Section 165—Reports, Recordkeeping, and Investigations. This section requires Federal grant recipients to maintain records and report information regarding program performance as specified by the Secretary. This section also requires reporting of expenditures at a level adequate to insure statutory compliance.

■ Section 169—Administrative Provisions. The Secretary is directed at subsection (d)(1) to submit an annual report to the Congress summarizing the achievements of the program. Such a report will include data on program performance.

These revisions are intended to extend and update the reporting system. The justification for having reporting at the SDA level has not changed since the initial establishment of the reporting requirements, namely:

—Data on program performance, participant characteristics and local economic conditions must be available at the SDA level to set standards.

—Federal reporting is the most cost-effective method for collecting information on program performance and participant characteristics. In addition, such a system ensures the consistency of the data across SDAs.

—Without SDA-level data, objective and defensible local standards cannot be set, because the effects on performance of varying local conditions cannot be systematically predicted.

B. Reasons for Revisions

These revisions are being implemented for several reasons:

■ Within the context of increased service to a less employable population, the JTPA Advisory Committee recommendations and legislative proposals to amend JTPA emphasize the importance of long-term employability development to meet the needs of adults as well as youth. Thus far, there are no national data on adult employability enhancements, despite the growing evidence of the need to provide remediation for adults as well as youth. In anticipation of developing an adult measure in the future, skill attainments as well as educational gains and training advance will now be collected for adults and welfare recipients similar to what is already being reported for youth.

■ Many JTPA youth programs are working with the public schools to encourage school retention among youth at-risk of dropping out. Dropout prevention is not currently recognized within the performance management system, however, unless the individual completes a major level of education. A new enhancement outcome rewarding programs that assist youth identified as being potential dropouts to progress through school will legitimize and promote these cooperative education/JTPA efforts.

■ Whether programs should be rewarded for simply placing youth in full-time academic or training activities without evidence of learning gains is an issue of continuing programmatic concern. Four of the employability enhancements have been strengthened to require a minimum period of participation in school or training, and evidence of academic progress, or an academic credential or certificate of skill attainment. Youth in dropout prevention or dropout recovery programs must show some measurable academic progress and attain a youth competency, a basic education or occupational skill (basic skill or preemployment/work maturity competency for 14-15 year olds), before credit will be given.

■ In anticipation of tighter targeting on those with greater barriers to employment, additional data will be collected to more fully identify those participants who are among the hardest to serve. Information on those who lack a significant work history, are homeless, who have participated in the JOBS program or who have multiple employment barriers, will improve adjustments to performance standards to reflect differences in service levels to these groups.

■ A major recommedation of the JTPA Advisory Committee is to make investments in quality training to better prepare JTPA participants for a changing, more complex workplace. Program outcomes differ widely depending on participant deficiencies and length of time spent in training to overcome them. SDAs will now be asked to report separately on a participant's average length of time in JTPA Title II-A training as well as time in all training (JTPA and non-JTPA). This information will assist Governors in setting reasonable expectations for assessing and rewarding post-program performance.

C. Discussion of Comments

There were 121 comments received within the comment period. Additional comments received after the deadline were reviewed and considered to the extent possible. The position of the Department is indicated below and reflected in the reporting instructions as appropriate.

Remained in School/Returned to School

The Secretary specifically requested comments on whether data on in-school youth served in dropout prevention programs should be reported nationally and whether the outcome—Remained in School—is appropriately defined. The overwhelming majority of responses to these questions supported both the reporting on this outcome and the rationale for requiring evidence of some measurable academic improvement

during a specified period of school participation.

Where concerns were raised, they were more an issue of clarity rather than concept. Some commenters felt that there should be a uniform Federal definition of "at-risk of dropping out of school", and that more specific information should be provided on what constitutes making "satisfactory progress in school" rather than simply referencing definitions in other Federal programs. There were also questions about the specified minimum period of participation in school. Many commenters questioned the use of the term "semester" because it is not universally used, and when used, the time period varies. The exclusion of pre-employment/work maturity from the competency options for 14–15 year olds was viewed by some as precluding service to youthful participants because of perceived program design limitations under section 205(c) of JTPA.

The Department has made the following revisions as a result of the comments received:

—A definition of "Satisfactory progress in school" is provided in the reporting instructions.

—The school participation requirement has been changed to a semester or at least 120 calender days.

—Pre-employment/work maturity is now included as one of the acceptable competency options for 14–15 year old youth meeting the school participation and academic progress requirements of the "Remained in School" outcome.

No uniform definition of "at-risk of dropping out of school" will be provided. The Department believes that the Governor, in consultation with a State education agency, is better equipped to identify the conditions most likely to lead to dropping out of school in that State. This is consistent with the delegation to States of other responsibilities to promote Statewide client and service priorities in JTPA's performance management system. In addition, this policy is designed to promote constructive partnerships between JTPA and education agencies.

The definition of Returned to School has been revised to include satisfactory progress, a youth competency and retention requirements identical to those for Remained in School.

Other Employability Enhancement Definitions

The majority of comments focused on the 90-day program participaton requirement in the two remaining employability enhancements. There was general concern about how this period of time is to be counted (i.e., is it concurrent with enrollment or subsequent to termination?) and whether a specified program participation requirement is relevant for accelerated programs or competency-based training approaches.

Revisions to the reporting instructions clearly indicate that all program participation requirements must be met prior to termination from JTPA. In recognition of more accelerated GED courses and non-title II training programs which may be available, duration of program participation will be modified to allow for 200 hours or 90 calendar days of participation. For those enrolled in non-Title II programs of less than 200 hours, certification of occupational skill attainment from the training institution will also be acceptable.

Collection of Adult Skill Attainment Information

Nearly all of those commenting on this issue supported the collection of adult skill attainment information. No issues were raised about collecting data on completing a major level of education or entering non-Title II training. The comments were divided between those desiring more direction on reporting basic and occupational skill attainments, and those opposed to the Department prescribing the same minimum structural and procedural elements that characterize the youth employment competency systems. In order to strike a balance between ensuring accountability and avoiding prescription, reporting of adult basic and occupational skill attainments will now require an employability development planning process, including identification of individual skill deficiencies, completion of training designed to overcome the deficiencies, and the level of proficiency necessary to demonstrate skill attainment.

Several respondents requested that pre-employment/work maturity skill attainments also be collected for adults. The department views these skills as an integral part of all adult training programs, and thus do not warrant separate data collection on such attainments for future use in the development of a performance measure.

Additional Barriers to Employment: Lacks Significant Work History

Some respondents felt that data collection would be unduly burdensome. DOL always intended that reporting this item would result from responses to a few simple questions. Brief probe questions have been included in the reporting instructions as examples of how the pattern of work history might be obtained. The costly collection of detailed work history information from each applicant is unnecessary.

Questions were also raised about the accuracy of self-reported work history information, especially when it is recalled from the previous three years. To address such concerns, the "look back" period has been reduced from three to two years. This is consistent with the JTPA Advisory Committee recommendations about what is both a reasonable and meaningful indicator of work history. It is also compatible with the "look back" period used in the definition of Long-Term AFDC Recipient. While reducing the look-back period will help to enhance accuracy, the Department recognizes the inherent difficulties associated with the accuracy of self-reported data.

Research shows that individuals with unstable or casual work histories are significantly more difficult to serve. The labor force status items that are curently reported measure different dimensions of an individual's recent work history, i.e., a long spell of unemployment within the last six months, or not looking for work during the month before program entry. Neither measure captures a retrospective pattern of labor market attachment or instability, which is identified in the new reporting item "Lacks Significant Work History."

JOBS Program Participant

JOBS Program Participant has been added as a reporting item in order to promote coordination between JTPA and JOBS programs, and provide an additional adjustment factor for hard-to-serve individuals. This reporting item is also to be included as part of the Multiple Barriers line item. Although this item was not included in the original proposal, it is consistent with targeting provisions in the JTPA amendments and was added at the direction of the Office of Management and Budget. It is expected that as the JOBS program is implemented in each State, the information will be routinely available and would not result in an additional reporting burden.

Multiple Barriers to Employment

Some viewed the list of barriers as being too narrowly prescriptive, which might limit State and local discretion in developing targeting policies. Others commented on the added reporting burden, definitional uncertainties, problems in reporting on such sensitive items as substance abuse, the appropriateness of setting a requirement of more than two barriers, and

confusion about the relationship between this reporting item and the ten-percent "window" for enrolling nondisadvantaged individuals.

The list of barriers primarily includes items to be reported separately on the JASR, including the newly added JOBS Program Participant item. Three items are not JASR reporting elements. These are: Mathematical Skills Below the 7th Grade Level, Substance Abuse, and Pregnant/Parenting Teen. At commenters' suggestion, the latter item has been added to the list because recent program experience shows this group to be particularly difficult to serve. These three employability obstacles may be counted toward meeting the multiple barriers requirement if such information is defined by the Governor (to ensure data uniformity Statewide) and is available at the local level. Due to the sensitivity in identifying individuals with a substance abuse barrier, the confidentiality of such information must be assured.

Data from a national survey of JTPA terminees showed that most had two "barriers to employment". Therefore, the cutoff was set at three barriers to ensure sufficient variability among SDAs to permit a meaningful performance adjustment.

Finally, the list of barriers included in this reporting item is unrelated to either program eligibility criteria or the 10% window. This item was added to provide a potential performance standard adjustment. In no way should Governors or private industry councils view the "Multiple Barrriers to Employment" list as a constraint on their authority to establish their own targeting policies.

Collecting information on multiple barriers will serve the primary purpose of providing an improved performance standards adjustment that accounts for serving a client population facing significant obstacles to employability. Research supports the proposition that serving participants with multiple barriers will result in lower employment and earnings expectations. Use of a list of employment barriers, without demographic characteristics, was developed after extensive consultation with program, reporting, and statistical experts who agreed that a single reporting item could capture the cumulative effects on program outcomes of a client population with multiple barriers.

Increased reporting on characteristics that reflect harder-to-serve populations, elimination of cost standards, and emphasis on postprogram outcomes must be viewed together as a unified policy designed to provide less employable participants with more intensive services to enable them to obtain better quality jobs. The collection of information on individuals with Multiple Barriers to Employment is an essential part of this focus.

Weeks in Training and Definition of Training

Some commenters raised issues around the definition of training and its relationship to other definitions, particularly those governing cost accounting. For JASR reporting, training is more narrowly defined and a statement has been added to the JASR reporting instructions that clearly indicates this distinction. This should produce better systemwide information on the average amount of time JTPA participants spend in more intensive skills training as compared to measures of average program participation which include time spent in less intensive job search activities or periods of inactivity between assignments.

Others took exception to the reporting of weeks in training for participants, although many SDAs indicated that they already track participants and collect information by program activity. Promotion of longer-term skills training as a valuable service strategy is an important Departmental objective. These data will provide Governors with critical information for incentive determinations to reward SDAs who provide more training.

As the same time, the scope of training opportunitities has been expanded to emcompass all skills training whether funded by JTPA or by other non-JTPA sources. Provisions have been included in the reporting instructions that allow SDAs the opportunity to track participation through concurrent enrollment in other programs, such as a case management-type system, if the training is consistent with an initially determined training objective. This policy is designed to improve efforts to coordinate programs among human service providers within a commmunity. To facilitate analysis of this information, data on average weeks in Title II-A training will be reported separately. This separate reporting was not part of the original JASR proposal, but since it is part of the computation of the overall average, which has been retained from the original proposal, it will not entail any additional reporting burden.

The proposed "Received Less Than 26 Weeks of Training" and "Received 26 or More Weeks of Training" line items have been dropped at the request of the Office of Management and Budget because they offer only a rough measure of the distribution of training intensitv across participants and do not contribute substantially more information on intensity than the average weeks in training items.

Definition of Veterans

The definition of Veteran has been revised to conform to language developed between ETA and the Department's Office of Veteran' Employment, Reemployment, and Training that prescribes a minimum period of 180 days of active duty for Veterans to quality for various federally funded employment and training opportunities. The Department has not included Disabled Veterans as a separate reporting item because information on the numbers of handicapped participants served in JTPA is already being reported. For completeness, a defintion for Disabled Veteran has been added to appendix C of the JASR. In addition, the Department is already collecting information on "Disabled Veterans" as part of its ongoing quarterly national survey of JTPA participants.

Paperwork Reduction Act of 1980

The Appendix in this notice has been reviewed in accordance with The Paperwork Reduction Act by the Office of Management and Budget and approved through the period beginning July 31, 1991. This report has been assigned OMB Control No. 1205–0211

ETA estimates that it will take an average of 6424 hours to complete this information collection including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Comments regarding these estimates or any other aspect of this survey, including suggestions for reducing this burden, shall be sent to the Office of Information Management, U.S. Department of Labor, room N–1301, 200 Constitution Avenue NW., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Signed at Washington, DC, this 10th day of May, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

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JTPA Annual Status Report (JASR)

1. *Purpose.* The JTPA Annual Status Report (JASR) displays cumulative data on participation, termination, performance measures and the socio-economic characteristics of all terminees on an annual basis. The information will be used to determine levels of program service and performance measure. Selected information will be aggregated to provide quantitative program accomplishments on a local, State, and national basis.

2. *General instructions.* A. The Governor will submit for title II-A (Columns A-C) a separate JASR for each designated Service Delivery Area (SDA) and a separate Statewide JASR sumary of the SDA report data. (This Statewide JASR summary of individual SDA data should not be submitted by single-SDA States.) Grantees may determine whether the reports are submitted on JASR forms or as a computer printout, with data, including signature and title, date signed and telephone number, arrayed as indicated on the JASR form. If revisions are made to the JASR data after the reporting deadline, revised copies of the JASR should be submitted to DOL as soon as possible according to the required reporting procedures. Submittal of one or more JASRs with revised information for Total Participants, Total Terminations and/or Total Program Costs (Federal Funds) usually will require submittal of a revised JTPA Semi-annual Status Report (JSSR) which includes the final quarter of the same program year.

Note: For JASR reporting purposes, title II-A shall refer to programs operated with funds authorized under section 202(a) of the Act or otherwise distributed by the Governor under section 202(b)(3) (6%) of the Act—incentive grants for service to the hard-to-serve and programs exceeding performance standards. (Concentrated Employment Programs (CEPs) should report total title II-A program expenditures of 78% funds, special supplemental allocations, and 6% incentive grants.) Do not include data on (6%) funds authorized under section 202(b)(3) for technical assistance. Participants and expenditures under Title I, sections 123 (8%) and 124 (3%), and expenditures under Title II, section 202(b)(4) (5%) and any participants, if applicable, are likewise excluded from the JASR.

Note: Participant and expenditure information under title II-B, Summer Youth Employment and Training Program (SYETP) and title III dislocated worker programs also are excluded from the JASR.

SDAs should not terminate from title II-A youths who participate in the title II-B Summer Program unless they are not expected to return to title II-A for further employment, training and/or services.

If these youths receive concurrent employment, training and/or services under both titles II-A and II-B, they are to be considered participants in both titles for purposes of recording actual number of weeks participated, weeks in training, dollars expended, and other pertinent data.

If, however, these youths do not receive title II-A employment, training and/or services while participating in title II-B, this period is not to be included in the calculation of actual number of weeks participated in title II-A at Line 35, Column C but would be included in Average Weeks in All Training at Line 50, Column C.

b. *Concurrent participants.* (1) A concurrent paticipant must have an initially determined training objective that will require concurrent participation in more than one program/title, including non-JTPA funded programs (NOT only multiple activities in a single program or title).

(2) Provision must be made for transfer of participant information among the several programs/titles/subrecipients.

(3) The type of termination determined for the final program should be recorded for all programs for these participants.

(4) Any period of inactivity in a given title II-A program, while a concurrent participant is receiving training elsewhere, shall not be counted as part of the single period of up to 90 days of inactive status. After completion of the final training, the single period of up to 90 days of inactive status provides programs time to determine if additional JTPA activity is necessary and/or for locating optimum unsubsidized employment for each participant for whom such an outcome is planned. Thus the type of outcome may or may not be Entered Unsubsidized Employment.

(5) Average weeks of participation reported in Line 35 by any title II-A 78%/6%=incentive program are to be calculated using only those weeks of active participation, including required periods of retention in Item I.B.2., funded under that given program.

(6) Any training weeks, regardless of funding source (*e.g.*, vocational education), are to be included in counting duration of training in Lines 48 and 49.

c. The reporting period begins on the starting date of each JTPA program year, as stated in section 161 of the Act. Reports are due in the national and regional offices no later than 45 days after the end of each program year. Two copies of the JASR are to be provided to:

Employment and Training Administration, U.S. Department of Labor, Attn: TSVR—Rm. S-5306, 200 Constitution Avenue NW., Washington, DC 20210

d. At the same time an additional copy of the JASR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL regional office that includes the State in which the JTPA recipient is located.

3. *Facsimile of form.* See the following page.

BILLING CODE 4510-30-M

OMB No. 1205-0211
Expires 7/31/91

U.S. DEPARTMENT OF LABOR Employment and Training Administration JTPA ANNUAL STATUS REPORT (JASR)	a. STATE/SDA NAME AND ADDRESS/SDA #	b. REPORT PERIOD FROM	TO

I. PARTICIPATION AND TERMINATION SUMMARY	Total Adults (A)	Adults (Welfare) (B)	Youth (C)
A. TOTAL PARTICIPANTS			
B. TOTAL TERMINATIONS			
1. Entered Unsubsidized Employment			
a. Also Attained Any Adult/Youth Employability Enhancement			
2. Adult/Youth Employability Enhancement Terminations			
a. Attained Adult Employability Skills/PIC-Recognized Employment Competencies			
b. Returned to Full-time School			
c. Remained in School			
d. Completed Major Level of Education			
e. Entered Non-Title II Training			
3. All Other Terminations			

	II. TERMINEES PERFORMANCE MEASURES INFORMATION			
1	Male			
2	Female			
3	14 - [illegible]			
4	16 - [illegible]			
5	18 - [illegible]			
6	22 - 29			
7	30 - 54			
8	55 and over			
9	School Dropout			
10	Student			
11	High School Graduate or Equivalent (No Post-High School)			
12	Post-High School Attendee			
13	Single Head of Household With Dependent(s) Under Age 18			
14	White (Not Hispanic)			
15	Black (Not Hispanic)			
16	Hispanic			
17	American Indian or Alaskan Native			
18	Asian or Pacific Islander			

c. SIGNATURE AND TITLE	d. DATE SIGNED	e. TELE. NO.

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ETA 8580 (May 1990)

JTPA Annual Status Report (JASR)	a. STATE/SDA NAME AND ADDRESS	b. REPORT PERIOD FROM	TO

	II. TERMINEES PERFORMANCE MEASURES INFORMATION - Continued	Total Adults (A)	Adults (Welfare) (B)	Youth (C)
19	Limited English Language Proficiency			
20	Handicapped			
21	Offender			
22	Reading Skills Below 7th Grade Level			
23	Long-Term AFDC Recipient	//////////		
24	Lacks Significant Work History			
25	Homeless			
26	JOBS Program Participant			
27	Multiple Barriers to Employment			
28	Unemployment Compensation Claimant			
29	Unemployed [illegible] More [illegible] Weeks			
30	Not in Labor Force			
31	Welfare Grant Type: AFDC	//////////		
32	GA/RCA	//////////		
33	Veteran (Total)		//////////	
34	Vietnam Era		//////////	//////////
35	Average Weeks Participated			
36	Average Hourly Wage at Termination			
37	Total Program Costs (Federal Funds)		//////////	
38	Total Available Federal Funds		//////////	//////////
	III. FOLLOW-UP INFORMATION			
39	Employment Rate (At Follow-up)			//////////
40	Average Weekly Earnings of Employed (At Follow-up)			//////////
41	Average Number of Weeks Worked in Follow-up Period			//////////
42	Sample Size			//////////
43	Response Rate			//////////
	IV. ADULT EMPLOYABILITY SKILL/YOUTH EMPLOYMENT COMPETENCY ATTAINMENT INFORMATION			
44	Attained Any Skill/Competency Area			
45	Pre-Employment/Work Maturity Skills	//////////	//////////	
46	Basic Education Skills			
47	Occupational/Job Specific Skills			
48	Average Weeks in All Training			
49	Average Weeks in Title II-A Training			

REMARKS:

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BILLING CODE 4510-30-C

4. *Instructions for completing the JTPA Annual Status Report (JASR).*

a. SDA Name, Number and Address

Enter the name, *ETA assigned SDA number* and address of the designated SDA subrecipient.

b. Report Period

Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of that program year.

c. Signature and Title (at bottom of the page)

The authorized official signs here and enters his/her title.

d. Date Signed

Enter the date the report was signed by the authorized official.

e. Telephone Number

Enter the area code and telephone number of the authorized official.

5. *General Information.* For purposes of the JASR, the Total Adults and Adults (Welfare) columns will include terminees age 22 years and older. Thus, the column breakouts are based strictly on age rather than on program strategy. The youth column will include terminees who were age 14–21 at the time of eligibility determination.

Unless otherwise indicated, data reported on characteristics of terminees should be based on information collected at the time of eligibility determination.

Characteristics information obtained on an individual at the time of eligibility determination for the recipient's JTPA Program should not be updated when the individual terminates from the JTPA Program.

Column Headings

Column A Total Adults

This column will contain an entry for each appropriate item for all adult participants in title II–A only.

Column B Adults (Welfare)

This column will contain an entry for each appropriate item for adult participants in title II–A who were listed on the welfare grant and were receiving cash payments under AFDC (SSA title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (Pub. L. 96–212) at the time of JTPA eligibility determination. For reporting and performance standards purposes, exclude those individuals who receive only SSI (SSA title XVI) from entries in Column B.

Note: Column B is a sub-breakout of Column A; therefore, Column B should be less than or equal to Column A for each line entry.

Column C Youth

This column will contain an entry for each appropriate item for all participants, aged 14–21, in title II–A only.

Note: Columns A, B, and C apply to title II–A only. All information regarding a given participant must be entered in the same column, e.g., Column C for a youth.

The sum of the entries (all SDAs in a State) in Columns A and C, Item I.A., Total Participants, of the JASR should equal the entry in Column A, Item III.A.1., SDA Participants, of the JSSR, for the same recipient, that includes the final quarter of the same program year.

The sum of the entries (all SDAs in a State) in Columns A and C, Item I.B., Total Terminations, of the JASR should equal the entry in Column A, Item III.B.1., SDA Terminations, of the JSSR, for the same recipient, that includes the final quarter of the same program year.

Section I—Participation and Termination Summary

Section I displays the program's accomplishments in terms of the total cumulative number of participants in the program and the number and types of terminations from the program, as of the end of the reporting period.

Entries for Items I.A. and I.B. are cumulative from the beginning of the program year through the end of the reporting period.

Item I.A. Total Participants

Enter by column the total number of participants who are or were receiving employment, training or services (except post-termination services) funded under that program title through the end of the reporting period, including both those on board at the beginning of the designated program year and those who have entered during the program year. If individuals receive concurrent employment, training and/or services under more than one title, they are to be considered participants in both titles for purposes of recording actual number of weeks of active participation, dollars expended, and other pertinent data.

"Participant" means any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving employment, training, or services (except post-termination services) funded under the Act, following intake. Individuals who receive only outreach and/or intake and initial assessment services or postprogram follow-up are excluded.

Participants who have transferred from one title to another, or between programs of the same title, should be recorded as terminations from the title or program of initial participation and included as participants in the title or program into which they have transferred, unless they are to be considered concurrent participants in both titles or programs.

Item I.B. Total Terminations

Enter by column the total number of participants terminated after receiving employment, training, or services (except post-termination services) funded under that program title, for any reason, from the beginning of the program year through the end of the reporting period. This item is the sum of Items I.B.1. through I.B.3.

"Termination" means the separation of a participant from a given title of the Act who is no longer receiving employment, training, or services (except post-termination services) funded under that title.

Note: Individuals may continue to be considered as participants for a single period of 90 days after last receipt of employment and/or training, as defined for the JASR in Appendix C, funded under a given title. During the 90-day period, individuals may or may not have received services. For purposes of calculating average weeks participated, this period between "last receipt of employment and/or training funded under a given title" and actual date of termination is defined as "inactive status" and is not to be included in Line 35.

Item I.B.1. Entered Unsubsidized Employment

Enter by column the total number of participants who, at termination, entered full- or part-time unsubsidized employment through the end of the reporting period. Unsubsidized employment means employment not financed from funds provided under the Act and includes, for JTPA reporting purposes, entry into the Armed Forces, entry into employment in a registered apprenticeship program, and terminees who became self-employed.

Item I.B.1.a. Also Attained Any Adult/Youth Employability Enhancement

Enter by column the total number of adults/youth who (1) entered unsubsidized employment, Item I.B.1., and (2) also attained any one of the three adult employability enhancements or any one of the five youth employability enhancements (as enumerated in the instructions for Item I.B.2. below and defined in Appendix C). This item is a sub-breakout of Item I.B.1.

Item I.B.2. Adults/Youth Employability Enhancement Terminations

Enter by column the total number of adults/youth who were terminated under one of the Adults/Youth Employability Enhancements through the end of the report period.

"Adult Employability Enhancement" means an outcome for adults, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained Adult Employability Skills (one or more), (2) Completed Major Level of Education and (3) Entered Non-Title II Training.

"Youth Employability Enhancement" means an outcome for youth, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained PIC-Recognized Youth Employment Competencies (two or more); (2) Returned to Full-Time School; (3) Remained in School; (4) Completed Major Level of Education; or (5) Entered Non-Title II Training.

Note: For reporting purposes, an adult/youth shall not be included in Item I.B.2. if s/he entered unsubsidized employment, and shall be reported in only one of the three/five categories enumerated above, even though more than one outcome may have been achieved.

Item I.B.2.a. Attained Adult Employability Skills/PIC-Recognized Youth Employment Competencies

Enter in Columns A and B the total number of adults who, at time of termination, have demonstrated proficiency as defined by the local area in one or more of the following two skill areas in which the terminee was deficient at enrollment: basic education skills and occupational skills. Employability skill gain must be achieved through active program participation and must be the result of a prior employability development planning process which identifies the participant's skill deficiencies, the training needed to overcome the deficiencies and the level of proficiency needed for attainment of the employability skill.

Note: Adult terminees who have attained proficiency in basic education skills and/or occupational skills through training funded under 8% programs and/or cooperative agreements may be counted, provided such training was for completion of a training objective initially determined while a participant in an adult employability skills system operated under 78%/6%-incentive funds.

Enter in Column C the total number of youth who, at termination, have demonstrated proficiency as defined by the PIC in two or more of the following three skill areas in which the terminee was deficient at enrollment: pre-employment/work maturity; basic education; or job-specific skills. Competency gains must be achieved through program participation and be tracked through sufficiently developed systems that must include: quantifiable learning objectives, related curricula/training modules, pre- and post-assessment, employability planning, documentation, and certification. This item is a sub-breakout of Item I.B.2. The entry in each column for Item I.B.2.a. must be equal to or smaller than the entry in that column for Line 44.

Note: Youth terminees who have attained a compentency in premployment/work maturity skills funded under title II-B or basic education skills and/or job specific skills through training funded under 8% programs and/or cooperative agreements may be counted, provided such training was for completion of a training objective initially determined while a participant in a youth employment compentency system operated under 78%/6%-incentive funds.

Youth employment competency system requirements remain unchanged from PY 89 and Appendix B defines the minimal structural and procedural elements of a sufficiently developed youth employment competency system as well as the minimal requirements for ensuring consistency in the reporting of competency attainment in the pre-employment/work maturity skill area.

The youth compentency system also may be used for adults or local areas may devise alternative adult employability skill attainment systems.

Item I.B.2.b. Returned to Full-Time School

Enter the total number of youth who, (1) had returned to full-time secondary school (e.g., junior high school, middle school and high school), including alternatie school, if, at the time of intake the participant was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent and (2) prior to termination had been retained in school for one semester or at least 120 calendar days. This item is a subbreakout of Item I.B.2.

Alternative school—a specialized, structured curriculum offered inside or outside of the public school system which may provide work/study and/or GED preparaton.

Note: To obtain credit for *Returned to Full-Time School and Remained in School* (below), SDAs must be prepared to demonstrate that retention results from continuing, active participation in JTPA activities and the youth must (1) be making satisfactory progress in school, and (2) for youth aged 16–21: attain a PIC-approved Youth Employment Compentency in Basic Skills or Job Specific Skills and (3) for individuals aged 14–15: attain a PIC-apporved Youth Employment Compentency in Pre-employment/Work Maturity or Basic Skills.

Satisfactory progress in school—An SDA, in cooperation with the local school system, must develop a written policy which defines an individual standard of progress that each participant is required to meet. Such a standard should, at a minimum, include both a qualitative element of a participant's progress, (e.g., performance on a criterion-referenced test or a grade point average) and a quantitative element (e.g., a time limit for completion of the program or course of study). This policy may provide for exceptional situation in which students who do not meet the standard of progress, because of mitigating circumstances, are nonetheless making satisfactory progress during a probationary period.

Item I.B.2.c. Remained in School

Enter the total number of youth who, prior to termination, had been retained in full-time secondary school, including alternative school, for one semester or at least 120 calendar days. A youth may be recorded on this line only if s/he was attending school at the time of intake, had not received a high school diploma or equivalent, and was considered "at risk of droping out of school", as defined by the Governor in consultation with the State Education Agency. This item is a sub-breakout of Item I.B.2.

Item I.B.2.d. Completed Major Level of Education

Enter by column the total number of adults/youth who, prior to termination, had completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary. Completion standards shall be governed by State standards and shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written

certification of completion at the postsecondary level.

Note: To obtain credit, completion of a major level of education must result primarily from active JTPA program participation of at least 90 calendar days OR 200 hours, usually prior to such completion. This item is a sub-breakout of Item I.B.2.

Item I.B.2.e. Entered Non-Title II Training

Enter by column the total number of adults/youth who, prior to termination, had entered an occupational-skills employment/training program, not funded under title II of the JTPA, which builds upon and does not duplicate training received under title II.

Note: To obtain credit, the participant must have been retained in that program for at least 90 calendar days OR 200 hours OR must have received a certification of occupational skill attainment. During the period the participant is in non-Title II training, s/he may or may not have received JTPA services.

Inlcude here intertitle transfer terminees, such as to title I, section 123, 8% programs. This item is a sub-breakout of Item I.B.2.

Note: For Columns A and B, the sum of Items I.B.2.a. plus I.B.2.d. plus Item I.B.2.e. must equal Item I.B.2. For Column C, Items I.B.2.a. through I.B.2.e. must equal Item I.B.2. For Columns A through C, Item I.B.1. plus Item I.B.2. plus Item I.B.3. must equal Item I.B.

Item I.B.3. All Other Terminations

Enter by column the total number of participants who were terminated for reasons other than those in Items I.B.1. and I.B.2., successful or otherwise, through the end of the reporting period. See note at Item I.B.

Section II—Terminee Performance Measures Information

Section II displays performance measures/parameters information. As indicated perviously, data reported on characteristics of terminees should be based on information collected at time of eligibility determination unless otherwise indicated.

Governors may develop any participant record which meets the requirements of § 629.35(c) and (d) of the JTPA regulations. The DOL/ETA Techincal Assistance Guide: The JTPA Participant Record, dated May 1983, may be used as reference.

Line Item Definitions and Instructions

Sex

Line 1 Male
Line 2 Female

Distribute the terminees by column according to Sex. The sum of Lines 1 and 2 in each column should equal Item I.B. in that column.

Age

Line 3 14–15
Line 4 16–17
Line 5 18–21
Line 6 22–29
Line 7 30–54
Line 8 55 and over

Distribute the terminees by column according to Age. The sum of Lines 3 through 8 in each column should equal Item I.B. in that column.

Education Status

Line 9 School Dropout
Line 10 Student
Line 11 High School Graduate or Equivalent (No Post-High School)
Line 12 Post-High School Attendee

Distribute the terminees by column according to Education Status. The sum of Lines 9 through 12 in each column should equal Item I.B. in that column.

Family Status

Line 13 Single Head of Household with Dependent(s) Under Age 18.

Enter by column the total number of terminees for whom the above Family Status classification applies.

Race/Ethnic Group

Line 14 White (Not Hispanic)
Line 15 Black (Not Hispanic)
Line 16 Hispanic
Line 17 American Indian or Alaskan Native
Line 18 Asian or Pacific Islander

Distribute the terminees by column according to the Race/Ethnic Groups listed above. For purposes of this report, Hawaiian Natives are to be recorded as "Asian or Pacific Islander". The sum of Lines 14 through 18 in each column should equal Item I.B. in that column.

Other Barriers to Employment

Line 19 Limited English Language Proficiency
Line 20 Handicapped
Line 21 Offender
Line 22 Reading Skills Below 7th Grade Level
Line 23 Long-Term AFDC Recipient
Line 24 Lacks Significant Work History
Line 25 Homeless
Line 26 JOBS Program Participant
Line 27 Multiple Barriers to Employment

Enter by column the total number of terminees for whom each of the above Other Barriers to Employment apply. See appendix C for JASR definitions.

U.C. Status

Line 28 Unemployment Compensation Claimant

Enter by column the total number of terminees for whom the above Unemployment Compensation Status classification applies.

Labor Force Status

Line 29 Unemployed: 15 or More Weeks of Prior 26 Weeks
Line 30 Not in Labor Force

Enter by column the total number of terminees for whom each of the above Labor Force Status classifications apply

Welfare Grant Information

Line 31 Welfare Grant Type: AFDC
Line 32 Welfare Grant Type: GA/RCA

Distribute by column the total number of adult and youth welfare terminees who, at eligibility determination, were listed on the welfare grant and were receiving cash payments under AFDC (SSA Title IV), GA, General Assistance (State or local government) or RCA (Refugee Cash Assistance) under the Refugee Assistance Act of 1980 (Pub. L. 96–212). If a welfare recipient terminee received AFDC cash payments, include such terminee on Line 31. A welfare recipient terminee who received cash payments under GA and/or RCA, but not AFDC, should be included on Line 32. The sum of Lines 31 and 32 in Column B, Adults (Welfare), should equal Item I.B. in that column. The sum of Lines 31 and 32 in Column C, Youth, should be the same as or less than Item I.B. in that column.

Veteran Status

Line 33 Veteran (Total)
Line 34 Vietnam Era

Enter by column the total number of terminees for whom each of the above Veteran classifications apply, as defined in Appendix C. Line 34 is a sub-breakout for a specific group included in Line 33.

Other Program Information

Line 35 Average Weeks Participated

Enter by column the average number of weeks of participation in the program for all terminees. Weeks of participation include the period from the date an individual becomes a participant in a given title through the date of a participant's last receipt of employment and/or training funded under that title, including required periods of retention in Item I.B.2. Exclude the single period of up to 90 days during which an individual may remain in an inactive status prior to termination. Time in inactive status for all terminees should not be counted toward the actual number of weeks participated. Inactive status is defined as that period between "last receipt of employment and/or training funded under a given title" and actual date of termination. See note at Item I.B.

To calculate this entry: Count the number of days participated for each terminee, including weekends, from the start date of his/her participation in the title until his/her last receipt of employment and/or training under that title. For those who receive services only, use date of last receipt of such services. Divide this result by 7. This will give the number of weeks participated for that terminee. Sum all the terminees' weeks of participation and divide the result by the number of terminees, as entered (by column) in Item I.B. This entry should be reported to the nearest whole week.

Line 36 Average Hourly Wage at Termination

Enter by column the average hourly wage at termination for the total number of terminees in Item I.B.1.

To calculate this entry: Sum the hourly wage at termination for all the terminees shown in Item I.B.1. Divide the result by the number of terminees shown in Item I.B.1.

Hourly wage includes any bonuses, tips, gratuities and commissions earned.

Line 37 Total Program Costs (Federal Funds)

Enter by column the total accrued expenditures, through the end of the reporting period, of the funds (as entered on Line 38) allocated to SDAs under section 202(a) of the Act or otherwise distributed by the Governor to SDAs under section 202(b)(3)—incentive grants for services to the hard-to-serve and programs exceeding performance standards—for title II–A programs in Columns A and C (includes costs of services to participants aged 14–21), as appropriate, for all participants served. Exclude expenditures of funds authorized under section 202(b)(3) for technical assistance. Exclude expenditures under title I, sections 123 (8%) and 124 (3%) and title II section 202(b)(4) (5%).

Note: Entries will be made to the nearest dollar. Negative entries are not acceptable. The JASR program cost data will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

The sum of the entries in Columns A and C, Line 37, must be equal to or less than the entry for Line 38. The sum of the entries in Columns A and C, Line 37, Total Program Costs, of the JASR (i.e., total for the State's SDAs under title II–A) should equal the entry in Column A, Item I.A.1., SDA Total Program Expenditures, of the JSSR, and the sum of the entries (all SDAs in a State) in Column C, Line 27 of the JASR should equal the entry in Column A, Item II. of the JSSR, for the same recipient, that includes the final quarter of the same program year.

Line 38 Total Available Federal Funds

Enter the total Federal funds available for the title II–A program described on this report for this program year including (1) unexpected funds carried over from previous program years, (2) funds allocated or awarded for this program year, and (3) any reallocation that *increased or decreased* the amount of funds available for expenditure through the end of that reporting period. Enter *all* available title II–A funds (Adults and Youth) in Column A. Title II–A funds include those allocated to the SDA by the Governor under section 202(a) of the Act, as well as incentive grants for services to the hard-to-serve and for programs exceeding performance standards under section 202(b)(3). Exclude funds authorized under section 202(b)(3) (6%) for technical assistance to SDAs and funds received for activities under sections 123 (8%) and 124 (3%) and section 202(b)(4) (5%).

Section III—Follow-Up Information

Section III displays information based on follow-up data which must be collected through participant contact to determine an individual's labor force status and earnings, if any, during the 13th full calendar week after termination and the number of weeks s/he was employed during the 13-week period. Follow-up data should be collected from participation whose 13th full calendar week after termination ends during the program year (the follow-up group). Thus, follow-up will be conducted for individuals who terminate during the first three quarters of the program year and the last quarter of the previous program year.

Follow-up data will be collected for the following terminees: Title II–A adults and adult welfare recipients (Columns A and B). No follow-up information is required for title II–A youth (Column C).

The procedures used to collect the follow-up data are at the discretion of the Governors. However, in order to ensure consistency of data collection and to guarantee the quality of the follow-up information, follow-up procedures must satisfy certain minimum criteria such as the required response rate. (See the Follow-up Guidelines included in these JASR instructions, Appendix A.)

Note: Every precaution must be taken to prevent a "response bias" which could arise because it may be easier to contact participants who were employed at termination than those who were not employed at termination and because those who entered employment at termination are more likely to be employed at follow-up. Special procedures have been developed by which SDAs and States can monitor response bias. If your response rates for those who were and were not employed at termination differ by more than 5 percentage points, the follow-up entries for the JASR must be calculated using the "Worksheet for Adjusting Follow-up Performance Measures" in the Follow-up Technical Assistance Guide. If the response rates differ by 5 percentage points or less, the following instructions for completing Lines 39–41 may be used.

Line 39 Employment Rate (At Follow-up)

Enter by column the employment rate at follow-up.

Calculate the employment rate by dividing the total number of respondents who were employed (full-time or part-time) during the 13th full calendar week after termination by the total number of respondents (i.e., terminees who completed follow-up interviews). Then multiply the result by 100. This entry should be reported to the nearest one decimal (00.0).

Line 40 Average Weekly Earnings of Employed (At Follow-up)

Enter by column the average weekly earnings of those employed (full-time or part-time) at follow-up.

Calculate the (before-tax) average weekly earnings by multiplying the hourly wage by the number of reported hours for each respondent employed at follow-up; and, if appropriate, add tips, overtime, bonuses, etc. Divide the sum of weekly earnings for all respondents employed during the 13th full calendar week after termination by the number of respondents employed at the time of follow-up. *Respondents not employed at follow-up are not included in this average.* This entry should be reported to the nearest whole dollar.

Weekly earnings include any wages, bonuses, tips, gratuities, commissions and overtime pay earned.

Line 41 Average Number of Weeks in Follow-up Period

Enter by column the average number of weeks worked.

To calculate the average number of weeks worked (full-time or part-time) divide the sum of the number of weeks worked during the 13 full calendar weeks after termination for all respondents who worked, by the total number of all respondents, whether or not they worked any time this 13-week follow-up period. This entry should be reported to the nearest one decimal (00.0).

Line 42 Sample Size

Enter by column the size of the actual sample selected to be contacted for follow-up. (For title II–A, i.e., total adults and adult welfare recipients SDA samples must be selected.)

Note: Report the total number of terminees selected for contact, including both respondents and nonrespondents. Only those deceased, institutionalized (e.g., in hospitals, prisons, nursing homes), or severely incapacited and unable to be interviewed for the entire follow-up period can be excluded from the sample.

Line 43 Response Rate

Enter by column the overall response rate, i.e., the percentage of complete surveys obtained.

To calculate the overall response rate, divide the number of terminees with complete follow-up information by the total number of terminees included in the follow-up sample (Line 42) and multiply by 100. This entry should be reported to the nearest whole percent.

Note: Complete follow-up information consists of substantive answers to the required follow-up questions and may not include "don't know", "no answer" or "don't remember".

Section IV—Adult Employability Skill/ Youth Employment Competency Attainment Information

Section IV displays information relevant to adult employability skill attainment as defined by the local area and youth employment competency attainment as defined by the PIC. Regardless of termination type, the following data represent the total cumulative number of individuals that attained an adult employability skill/ youth employment competency in any of the three skill areas and the numbers of individuals who attained a skill/ competency in (1) pre-employment/work maturity, (2) basic education and/or (3) occupational/job specific skills.

Note: Adult terminees who have attained proficiency in basic education skills and/or occupational skills and youth terminees who have attained competency in pre-employment/work maturity skills funded under title II–B or basic education skills and/ or job specific skills through training funded under 8% programs and/or cooperative agreements may be counted in section IV provided such training was for completion of a training objective initially determined while a participant in an adult employability skill/ youth employment competency system operated under 78%/6%-incentive funds.

Youth employment competency system requirements remain unchanged from PY 89 and Appendix B defines the minimal structural and procedural elements of a sufficiently developed youth employment competency system as well as the minimal requirements for ensuring consistency in the reporting of competency attainment in the pre-employment/work maturity skill area.

The youth competency system may also be used for adults or local areas may adopt the alternative adult employability skill attainment system requirements.

Line 44 Attained Any Skill/Competency Area

Enter by column the total unduplicated number of adults/youth terminees who were enrolled in an adult employability skill/youth employment competency component and who attained a skill/competency in at least one skill area.

Note: Lines 45–47 are not sub-breakouts of Line 44 because one individual may attain several skills-competencies and may be recorded on more than one of Lines 45–47. That individual may be recorded only once on Line 44, thus, the sum of the entries in each column for Lines 45–47 must be equal to or greater than the entry in that colmn for Line 44.

Line 45 Pre-Employment/Work Maturity Skills

Enter by column the number of youth terminees who attained a skill/ competency in the pre-employment/ work maturity skill area.

Line 46 Basic Education Skills

Enter by column the number of adult/ youth terminees who attained a skill/ competency in the basic education skill area.

Line 47 Occupational/Job Specific Skills

Enter by column the number of adult/ youth terminees who attained a skill/ competency in the occupational/job specific skill area.

Note: For youth only, an entry of "O" on any of Lines 45–47 may indicate that the PIC has determined that a specific skill area is not necessary to become employment competent in their local labor market.

Line 48 Average Weeks in All Training

Enter by column for all terminees the average number of weeks in all training (JTPA and non-JTPA).

To calculate this entry: Count the number of days in any training activity for each terminee, including weekends, from the start date of his/her participation in that training until his/ her last receipt of that training. Repeat for any additional training activity. Divide this result by 7. This will give the number of weeks in training for that terminee. Sum all the terminees' weeks of training and divide the result by the number of terminees, as entered (by column) in Item I.B. This entry should be reported to the nearest whole week.

Note: Terminees who have received any training activity funded under a cooperative agreement with: (1) Other JTPA monies (i.e. 3%, 8%, title III etc.) or (2) other than JTPA funds may be counted in this line, provided such training was for the completion of the initially determined training objective, and the participant is concurrently enrolled in JTPA at the same time s/he is enrolled in the other training program.

Line 49 Average Weeks in Title II–A Training

Enter by column for all terminees only the average weeks in JTPA title II–A 78%/6%-incentive program funded training.

To calculate this entry: Count the number of days in any title II–A 78%/6%-incentive program funded training activity for each terminee, including weekends, from the start date of his/her participation in that training until his/ her last receipt of that training. Repeat for any additional title II–A 78%/6%-incentive program funded training activity. Divide this result by 7. This will give the number of weeks in title II–A 78%/6%-incentive program funded training for that terminee. Sum all the terminees' weeks of title II–A 78%/6%-incentive program funded training and divide the result by the number of terminees, as entered (by column) in Item I.B. This entry should be reported to the nearest whole week.

Note: Exclude title I, section 123 (8%) and section 124 (3%); title II–B; title III and non-JTPA funded training.

Appendix A

Follow-up Guidelines

To ensure consistent data collection and as accurate information as possible, procedures used to obtain follow-up information must satisfy the following criteria:

- Participant contact should be conducted by telephone or in person. Mail questionnaires may be used in those cases where an individual does not have a telephone or cannot be reached.
- Participant contact must occur as soon as possible after the 13th full calendar week after termination but no later than the 17th calendar week after termination.
- Data reported are to reflect the individual's labor force status and earnings during the 13th full calendar week after termination and the number of weeks s/he was employed throughout the 13-week period after termination.
- Interview questions developed by DOL (see following Exhibit) must be used to determine the follow-up information reported on the JASR. Respondents must be told that

responding is voluntary and that information provided by them will be kept confidential. Other questions may be included in the interview. Attitudinal questions may precede DOL questions, but questions related to employment and earnings must follow.

• Attempts must be made to contact all individuals unless terminee populations are large enough to use sampling.

• As many attempts as are necessary, to obtain the required response rate, should be made to contact enough individuals in the follow-up group.

• For each SDA (title II–A) report (JASR), minimum response rates of 70% are required for each of the following four groups: among adults, those who entered employment at termination and those who did not enter employment at termination; and among welfare recipients, those who entered employment at termination and those who did not enter employment at termination. The response rate is calculated as the number of terminees with complete follow-up information divided by the total number of terminees included in the group eligible for follow-up.

Exhibit

Minimum Postprogram Data Collection Questions

A. I want to ask you about the week starting on Sunday, _____, and ending on Saturday, _____, which was (last week/two/three/four weeks ago).

1. Did you do any work for pay during that week?

_____ Yes [Go to 2]

_____ No [Go to C]

2. How many hours did you work in that week?

_____ Hours

3. How much did you get paid per hour in that week?

_____ Dollars per hour

4. How much extra, if any, did you earn in that week from tips, overtime, bonuses, commissions, or any work you did on the side, before deductions?

_____ Dollars

B. Now I want to ask you about the entire 13 weeks from Sunday, _____, to Saturday, _____.

5. Including the week we just talked about, how many weeks did you work at all for pay during the 13-week period?

_____ Weeks [Go to end]

Alternative Questions

C. If answeed "NO" to question 1:

Now I want to ask you about the entire 13 weeks from Sunday, _____, to Saturday, _____.

6. Did you do any work for pay during that 13-week period?

_____ Yes [Go to 7]

_____ No [Go to end]

7. How many weeks did you do any work at all for pay during that 13-week period?

Sampling Procedures

Where sampling is used to obtain participant contact information, it is necessary to have a system which ensures consistent random selection of sample participants from all terminees in the group requireing follow-up.

• No participant in the follow-up group may be arbitrarily excluded from the sample. Therefore it is critical that all terminee records be promptly entered into the database used for sampling.

• Procedures used to select the sample must conform to generally acepted statistical practice, e.g., a table of random numbers or other random selection techniques must be used.

• The sample selected for contact must meet minimum sample size or sampling percentage requirements indicated in Table 1.

The use of sampling will depend on whether the terminee populations are large enough to provide estimates which meet minimum statistical standards. If the number of terminees for whom follow-up is required is less than 138, sampling cannot be used. In such cases attempts must be made to contact all the appropriate terminees.

Minimum Sample Sizes or Sampling Percentages for Follow-Up

The minimum sample sizes and the sampling percentages were both designed to meet the same statistical criterion and differ only because of the use of ranges and rounding. States or SDAs may choose to use either method. For ease of explanation, "minimum sample size" is used below. To determine the minimum number of terminees to be included in the follow-up sample, refer to Table 1 in the following instructions. Find the row in the left-hand column that contains the planned number of terminees for each of the groups requiring follow-up: adults and welfare recipients. The required minimum sample size is given in the middle column of that row. The last column gives sampling percentages that will assure that the minimum sample size is obtained.

Note: The welfare recipients in the adult sample may be used as part of the welfare sample. In this case, an additional number of welfare recipients must be randomly selected to provide a supplemental sample large enough to meet the same accuracy requirements as other groups requiring follow-up. To determine the minimum size of this supplemental welfare sample, find the row in the left-hand column of Table 1 that contains the planned total number of welfare recipients requiring follow-up. From the corresponding entry in the middle column, subtract the number of welfare recipients included in the adult sample. The remainder represents the minimum size of the supplemental sample of welfare recipients required for contact.

TABLE 1.—MINIMUM SAMPLE SIZES FOR FOLLOW-UP

Number of termines in follow-up population	Minimum sample size	Sampling percentage
1–137	All	100
138–149	137	94
150–159	143	92
160–169	149	89
170–179	154	87
180–189	159	85
190–199	164	84
200–224	175	82
225–249	185	78
250–274	194	74
275–299	202	71
300–349	217	67
350–399	229	62
400–449	240	57
450–499	250	53
500–599	265	50
600–749	282	44
750–999	302	38
1,000–1,499	325	30
1,500–1,999	338	22
2,000–2,999	352	17
3,000–4,999	364	12
5,000 or more	383	7.3

Correcting for Differences in Response Rates

Different response rates for those terminees who entered employment at termination and those who did not are expected to bias the performance estimates because those who entered employment at termination are more likely to be employed at follow-up. It is assumed that those who were employed at termination are easier to locate than those who were unemployed because the interviewer has more contact sources (e.g., name of employer). The resulting response bias can artificially inflate performance results at follow-up.

To account for this problem, separate response rates must be calculated for those who were employed at termination and for those who were not. These separate response rates must be calculated for two groups: all II–A adult terminees and welfare recipient terminees.

For each group, if the response rates of those employed at termination and those not employed differ by more than 5 percentage points, then the "Worksheet for Adjusting Follow-up Performance Measures" in the Follow-

up Technical Assistance Guide must be used to correct the follow-up measures for that group.

Appendix B

PIC-Recognized Youth Employment Competencies

A. General Description of Youth Employment Competency Skill Areas

• *Pre-employment skills* include world of work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques (resumes, interviews, applications, and follow-up letters). They also encompass survival/daily living skills such as using the phone, telling time, shopping, renting an apartment, opening a bank account, and using public transportation; and

Work maturity skills include positive work habits, attitudes, and behavior such as punctuality, regular attendance, presenting a neat appearance, getting along and working well with others, exhibiting good conduct, following instructions and completing tasks, accepting constructive criticism from supervisors and co-workers, showing initiative and reliability, and assuming the responsibility involved in maintaining a job. This category also entails developing motivation and adaptability, obtaining effective coping and problem-solving skills, and acquiring an improved self image.

• *Basic education skills* include reading comprehension, math computation, writing, speaking, listening, problem solving, reasoning, and the capacity to use these skills in the workplace.

• *Job-specific skills*—Primary job-specific skills encompass the proficiency to perform actual tasks and technical functions required by certain occupational fields at entry, intermediate or advanced levels. Secondary job-specific skills entail familiarity with and use of set-up procedures, safety measures, work-related terminology, recordkeeping and paperwork formates, tools, equipment and materials, and breakdown and clean-up routines.

B. Sufficiently Developed Systems for Youth Employment Competencies

A sufficiently developed youth employment competency system must include the following structural and procedural elements:

1. Quantifiable Learning Objectives

• PIC-recognized competency statements that are quantifiable, employment-related, measurable, verifiable learning objectives that specify the proficiency to be achieved as a result of program participation.

Employment competencies/qualtifiable learning objectives approved by the PIC as relevant to the SDA must include a description of the skills/knowledge/attitudes/behavior to be taught, the levels of achievement to be attained, and the means of measurement to be used to demonstrate competency accomplishment. The level of achievement selected should enhance the youth's employability and opportunities for postprogram employment.

2. Related Curricula, Training Modules, and Approaches

• Focused curricula, training modules, or behavior modification approaches which teach the employment competencies in which youth are found to be deficient.

Such related activities, components, or courses must encompass participant orientation, work-site supervisor/instructor/community volunteer training, and staff development endeavors as appropriate. They also must include, as appropriate, relevant agreements, manuals, implementation packages, instructions, and guidelines. A minimum duration of training must be specified which allows sufficient time for a youth to achieve those skills necessary to attain his/her learning objectives.

3. Pre-Assessment

• Assessment of participant employment competency needs at the start of the program to determine if youth require assistance and are capable of benefitting from available services.

A minimum level of need must be established before a participant is eligible to be tracked as a potential "attained PIC-recognized youth employment competency" outcome. All assessment techniques must be objective, unbiased and conform to widely accepted measurement criteria. Measurement methods used must contain clearly defined criteria, be field tested for utility, consistency, and accuracy, and provide for the training/preparation of all raters/scorers.

4. Post-Assessment (Evaluation)

• Evaluation of participant achievement at the end of the program to determine if competency-based learning gains took place during project enrollment.

Intermediate checking to track progress is encouraged. All evaluation techniques must be objective, unbiased and conform to widely accepted evaluation criteria. Measurement methods used must contain clearly defined criteria, be field tested for utility, consistency, and accuracy, and provide for the training/preparation of all raters/scorers.

5. Employability Development Planning

• Use of assessment results in assigning a youth to appropriate learning activities/sites in the proper sequence to promote participant growth and development, remedy identified deficiencies, and build upon strengths.

6. Documentation

• Maintenance of participant records and necessary reporting of competency-based outcomes to document intra-program learning gains achieved by youth.

7. Certification

• Proof of youth employment competency attainment in the form of a certificate for participants who achieve predetermined levels of proficiency to use as evidence of this accomplishment and to assist them in entering the labor market.

C. Guidelines for Ensuring Consistency in the Reporting of Pre-Employment/Work Maturity Skill Competencies

Individuals should demonstrate proficiency in each of the following 11 core competencies. In order for an attainment to be reported in the area of pre-employment/work maturity, at least one PIC-certified competency statement must be developed/quantified in each of the following 11 core competencies—provided that at least 5 of these learning objectives were achieved during program intervention:

1. Making Career Decisions
2. Using Labor Market Information
3. Preparing Résumés
4. Filling Out Applications
5. Interviewing
6. Being Consistently Punctual
7. Maintaining Regular Attendance
9. Presenting Appropriate Appearance
10. Exhibiting Good Interpersonal Relations
11. Completing Tasks Effectively

Appendix C

Definitions of Terms Necessary for Completion of Reports

Employment/Training Services

Assessment—services are designed to initially determine each participant's employability, aptitudes, abilities and interests, through interviews, testing and

counseling to achieve the applicant's employment related goals.

Follow-Up—is the collection of information on a terminee's employment situation at a specified period after termination from the program.

Intake—includes the screening of an applicant for eligibility and: (1) A determination of whether the program can benefit the individual; (2) an identification of the employment and training activities and services which would be appropriate for that individual; (3) a determination of the availability of an appropriate employment and training activity; (4) a decision on selection for participation; and (5) the dissemination of information on the program.

Outreach—activity involves the collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA training and support services.

Adult Employability Skills Training

Basic Education Skills—Includes remedial reading, writing, mathematics and/or English for non-English speakers.

Occupational Skills Training—Includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs, and (2) on-the-job training which is training in the public or private sector given to an individual, who has been hired first by the employer, while s/he is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job.

PIC-Recognized Youth Employment Competencies—See Appendix B.

Adult Employability Enhancement Termination

An outcome for adults, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained Adult Employability Skills (one or more), (2) Completed Major Level of Education or (3) Entered Non-Title II Training.

(1) Demonstrated proficiency as defined by the local area in one or more of the following two skill areas in which the terminee was deficient at enrollment: basic education skills and occupational skills. Employability skill gain must be achieved through program participation and must be the result of a prior employability development planning process which identifies the participant's skill deficiencies, the training needed to overcome the deficiencies and the level of proficiency needed for attainment of the employability skill.

Note: Adult terminees who have attained proficiency in basic education skills and/or occupational skills through training funded under 8% programs and/or cooperative agreements may be counted, provided such training was for completion of a training objective initially determined while a participant in an adult employability skills system operated under 78%/6%-incentive funds.

(2) Completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary. Completion standards shall be governed by State standards and shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the postsecondary level.

Note: To obtain credit, completion of a major level of education must result primarily from active JTPA program participation of at least 90 calendar days OR 200 hours.

(3) Entered an occupational-skills employment/training program, not funded under Title II of the JTPA, which builds upon and does not duplicate training received under Title II.

Note: To obtain credit, the participant must have been retained in that program for at least 90 calendar days OR 200 hours OR must have received a certification of occupational skill attainment. During the period the participant is in non-Title II training, s/he may or may not have received JTPA services.

Youth Employability Enhancement Termination

An outcome for youth, other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Outcomes which meet this requirement shall be restricted to the following: (1) Attained PIC-Recognized Youth Employment Competencies (two or more); (2) Returned to Full-Time School; (3) Remained in School; (4) Completed Major Level of Education; or (5) Entered Non-Title II Training.

(1) Demonstrated proficiency as defined by the PIC in two or more of the following three skill areas in which the terminee was deficient at enrollment: Pre-employment/work maturity; basic education; or job-specific skills. Competency gains must be achieved through program participation and be tracked through sufficiently developed systems that must include: quantifiable learning objectives, related curricula/training modules, pre- and postassessment, employability planning, documentation, and certification.

(2) Returned to full-time secondary school (e.g., junior high school, middle school and high school), including alternative school, if, at the time of intake the participant was not attending school, exclusive of summer, and had not obtained a high school diploma or equivalent and (2) prior to termination had been retained in school for one semester or at least 120 calendar days.

Note: Alternative school—a specialized, structured curriculum offered inside or outside of the public school system which may provide work/study and/or GED preparation.

Note: To obtain credit for Returned to Full-Time School and Remained in School (below), SDAs must be prepared to demonstrate that retention results from continuing, active participation in JTPA activities and the youth must (1) Be making satisfactory progress in school, and (2) for youth aged 16–21: attain a PIC-approved Youth Employment Competency in Basic Skills or Job Specific Skills and (3) for individuals aged 14–15: attain a PIC-approved Youth Employment Competency in Pre-employment/Work Maturity or Basic Skills.

(3) Remained in school for a youth who, prior to termination, had been retained in full-time secondary school, including alternative school, for one semester or at least 120 calendar days. A youth may be recorded on this line only if s/he was attending school at the time of intake, had not received a high school diploma or equivalent, and was considered "at risk of dropping out of school", as defined by the Governor in consultation with the State Education Agency.

(4) Completed, during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and postsecondary. Completion standards shall be governed by State standards and shall include a high school diploma, GED Certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the postsecondary level.

Note: To obtain credit, completion of a major level of education must result primarily from active JTPA program participation of at least 90 calendar days OR 200 hours.

(5) Entered an occupational-skills employment/training program, not funded under title II of the JTPA, which

builds upon and does not duplicate training received under title II.

Note: To obtain credit, the participant must have been retained in that program for at 90 calendar days OR 200 hours OR must have received a certification of occupational skill attainment. During the period the participant is in non-title II training, s/he may or may not have received JTPA services.

Education Status

School Dropout—An adult or youth (aged 14–21) who is not attending school full-time and has not received a high school diploma or a GED certificate.

Student—An adult or youth (aged 14–21) who has not received a high school diploma or GED certificate and is enrolled in and attending full-time a secondary or postsecondary-level vocational, technical, or academic school or is between school terms and intends to return to school.

High School Graduate or Equivalent (no Post-High School)—An adult or youth (aged 14–21) who has received a high school diploma or GED certificate, but who has not attended any postsecondary vocational, technical, or academic school.

Post High School Attendee—An adult or youth (aged 14–21) who has received a high school diploma or GED certificate and has attended (or is attending) any postsecondary-level vocational, technical, or academic school.

Family Status

Single Head of Household—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

Race/Ethnic Group

White (Not Hispanic)—A person having origins in any of the original peoples or Europe, North Africa, or the Middle East.

Black (Not Hispanic)—A person having origins in any of the black racial groups of Africa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin (including Spain), regardless of race.

Note: Among persons from Central and South American countries, only those who are of Spanish origin, descent, or culture should be included in the Hispanic category. Persons from Brazil, Guiana, and Trinidad, for example, would be classified according to their race, and would not necessarily be included in the Hispanic category. Also, the Portugese should be excluded from the Hispanic category and should be classified according to their race.

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander—A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent (e.g., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan), or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Hawaiian natives are to be recorded as Asian or Pacific Islanders.

Other Barriers to Employment

Limited English Language Proficiency—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

Handicapped Individual—Refer to section 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. This definition includes disabled veterans for reporting purposes.

Note: This definition will be used for performance standards purposes, but is not required to be used for program eligibility determination (section 4(8)(E)).

Offender—For reporting purposes, the term "offender" is defined as any adult or youth who requires from a record or arrest or conviction (excluding misdemeanors).

Reading Skills Below 7th Grade Level—An adult or youth assessed as having English (except in Puerto Rico) reading skills below the 7th grade level on a generally accepted standardized test.

Note: The following other methods of determination may be used:

- A school record of reading level determined within the last 12 months.
- If an applicant is unable to read and therefore cannot complete a self-application for the JTPA program, s/he may be considered to have English reading skills below the 7th-grade level.
- Individuals with any of the following may be considered to have English reading skills above the 7th-grade level:

—A GED certificate received within the last year.

—A degree (usually a BA or BS) conferred by a 4-year college, university or professional school.

If there is any question regarding reading ability, a standardized test should be administered.

Long-Term AFDC Recipient—An adult or youth listed on the welfare grant who had received cash payments under AFDC (SSA Title IV) for any 24 or more of the 30 months prior to JTPA eligibility determination and who has welfare recipient (as defined below) at the time of such determination.

Lacks Significant Work History—An adult or youth who had not worked for the same employer for longer than three consecutive months in the two years prior to JTPA eligibility determination. A suggested approach for obtaining information on whether a participant lacks a significant work history: To the participant, "Think back over the past two years about full-time and part-time jobs you've had. Which employers did you work for during this period? How long did you work for Employer A, for Employer B, for Employer C, etc.?"

Homeless—Any adult or youth who lacks a fixed, regular, adequate nighttime residence; and an adult or youth who has a primary nighttime residence that is: (1) A publicly or privately operated shelter for temporary accommodation (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), (2) an institution providing temporary residence for individuals intended to be institutionalized, or (3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include a person imprisoned or detained pursuant to an Act of Congress or a State law.

Jobs Program Participant—Any individual who is a participant (or has been a participant within the prior six months) in an activity funded under the JOBS program (Family Support Act of 1988, Pub. L. 100–485) at the time of eligibility determination for JTPA title II–A.

Multiple Barriers to Employment—Any adult or youth who has three or more of the following barriers to employment:

School Dropout
Limited English Language Proficiency
Handicapped/Disabled
Offender
Reading Skills Below the 7th Grade Level
Math Skills Below the 7th Grade Level
Long-Term AFDC Recipient
Lacks Significant Work History
Homeless
JOBS Program Participant
Substance Abuse
Pregnant/Parenting Teen

Note: The term "Substance Abuse" means the abuse of alcohol or other drugs. Substance Abuse, Math Skills Below the 7th Grade Level and Pregnant/Parenting Teen will not be collected as separate line items on the JASR. Individuals determined to have these barriers, as defined by the Governor, in

addition to the JASR line barriers, may be included on the multiple barriers line.

U.C. Status

Unemployment Compensation Claimant—Any individual who has filed a claim and has been determined monetarily eligible for benefit payments under one or more State or Federal unemployment compensation programs, and who has not exhausted benefit rights or whose benefit year has not ended.

Labor Force Status

Employed—(a) An individual who, during the 7 consecutive days prior to application to a JTPA program, did any work at all: (i) As a paid employee; (ii) in his or her own business, profession or farm, or (iii) worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family; or (b) an individual who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job. (This term includes members of the Armed Forces on active duty, who have not been discharged or separated; participants in registered apprenticeship programs; and self-employed individuals.)

Employed Part-Time—An individual who is regularly scheduled for work less than 30 hours per week.

Unemployed—An individual who did not work during the 7 consecutive days prior to application for a JTPA program, who made specific efforts to find a job within the past 4 weeks prior to application, and who was available for work during the 7 consecutive days prior to application (except for temporary illness).

Unemployed 15 or More Weeks of Prior 26 Weeks—An individual who is unemployed (refer to definition above) at the time of eligibility determination and has been unemployed for any 15 or more of the 26 weeks immediately prior to such determination, has made specific efforts to find a job throughout the period of unemployment, and is not classified as "Not in Labor Force".

Not in Labor Force—A civilian 14 years of age or over who did not work during the 7 consecutive days prior to application for a JTPA program and is not classified as employed or unemployed.

Welfare Grant Information

Welfare Recipient—An individual listed on the welfare grant who was receiving cash payments under AFDC (SSA title IV), General Assistance (State or local government), or the Refugee Assistance Act of 1980 (Pub. L. 96-212) at the time of JTPA eligibility determination. For reporting and performance standards purposes, exclude those individuals who receive only SSI (SSA title XVI).

Veteran Status

Veteran—A person who served on active duty in the military, naval, or air service (of the U.S.) for a period of more than 180 days and who was discharged or released therefrom with other than a dishonorable discharge or was discharged or released from active duty because of a service-connected disability. (38 U.S.C. 2011(4)).

Note: The term "active" means full-time duty in the Armed Forces, other than duty for training in the reserves or National Guard. Any period of duty for training in the reserves or National Guard, including authorized travel, during which an individual was disabled from a disease or injury incurred or aggravated in the line of duty, is considered "active" duty. The term "active" is further defined at 38 U.S.C. 101.

Disabled Veteran—A veteran who is entitled to compensation under laws administered by the Veterans' Administration, or an individual who was discharged or released from active duty because of a service-connected disability.

Vietnam-Era Veteran—A veteran, any part of whose active military, naval, or air service occurred between August 5, 1964 and May 7, 1975.

Program Costs

Accrued Expenditures—The allowable charges incurred during the program year to date requiring provision of funds for: (1) Goods and other tangible property received; and (2) costs of services performed by employees, contractors, subrecipients, and other payees.

Note: These charges do not include "resources on order", i.e., amounts for contracts, purchase orders and other obligations for which goods and/or services have not been received.

Training Activity

For JASR reporting purposes includes these training activities:

Remedial education and basic skills training
Literacy and bilingual training
Institutional skill training
Classroom training
Occupational skills training
On-the-job training
On-site industry-specific training
Customized training
Education-to-work transition training
Pre-apprenticeship training
Upgrading and retraining
Vocational explorational training
Work experience training
Training to develop marketable work habits
Coordinated training programs with other Federal employment-related activities

but excludes the following services (unless received concurrently with one or more of the above-included training activities):

Supportive services
Outreach and intake
Orientation
Assessment
Testing
Job or career counseling
Job club activities
Job search assistance
Job placement assistance

Note: The above definition of training is to be used for Item I.B., Total Terminations, and the weeks in trainaing line items (JASR Lines 48 and 49). This definition of training is not to be used for the training cost category on the JTPA Semiannual Status Report (JSSR).

[FR Doc. 90-11353 Filed 5-15-90; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-55-C]

Arch of Wyoming, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Arch of Wyoming, Inc., P.O. Box 800, Reliance, Wyoming 82943 has filed a petition to modify the application of 30 CFR 75.507-1(a) (electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements) to its Pilot Butte Mine (I.D. No. 48-01012) located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all electric equipment, other than power-connection points, used in return air outby the last open crosscut be permissible.

2. As an alternate method petitioner proposes to use two nonpermissible submersible deep-well pumps to dewater inactive old workings in order to recover the reserves in underlying areas.

3. In support of this request, petitioner states that—

(a) The energized electrical connections and pump motor of each pump would be submerged under a minimum of 5 inches of water at all times;

(b) Each pump would be controlled by a computer-enhanced pump controller which provides protection against overcurrent, phase unbalance, phase loss, and undervoltage. The controller would also provide for protection against undercurrent by deenergizing the pump whenever it cavitates; and

(c) A weekly examination of the electrical equipment would include a functional test of the grounded-phase protective devices to ensure proper operation, and a record of these tests would be recorded in an approved examination of electrical equipment record books.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11295 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-66-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify application of 30 CFR 75.1700 (oil and gas wells) to its Shoemaker Mine (I.D. No. 46-01436) and its Ireland Mine (I.D. No. 46-01438) both located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, petitioner proposes to clean out and plug oil and gas wells using specific techniques and procedures as outlined in the petition.

3. Prior to mining through, the petitioner would confer with the MSHA District Manager for approval of the specific mining procedures, and appropriate officials would be allowed to observe the proces and all mining would be under the direct supervision of a certified official.

4. Methane monitors would be calibrated prior to the shift and tests would be made during mining approximately every 10 minutes; and

5. When the wellbore is intersected, all equipment would be deenergized and safety checks would be made before mining would continue in the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 7, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11296 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-65-C]

Jedco Minerals, Inc., Petition for Modification of Application of Mandatory Safety Standard

Jedco Minerals, Inc., suite 26, 207 Oak Street, Mt. Pleasant, Pennsylvania 15666 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Ocean Mine #5 (I.D. No. 36-05132) located in Allegheny County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one entry of each intake and return aircourse be examined in its entirety on a weekly basis.

2. Due to unsafe roof conditions, roof falls, bottom heaves and water accumulations, certain areas of the mine cannot be safely traveled, and to require certified personnel to perform weekly examinations would result in a diminution of safety.

3. As an alternate method, petitioner proposes to establish methane monitoring stations at specific locations where weekly methane and air readings would be made by certified persons.

4. Petitioner states that the proposed alternate method will provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 8, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11297 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-62-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box 830079, Birmingham, Alabama 35283-0079 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its No. 2 Longwall, at its No. 4 Mine, (I.D. No. 01-01247) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to continue utilizing high-voltage (2300 v) cables at the No. 2

Longwall inby the last open crosscut. The petitioner outlines specific equipment and conditions in the petition.

3. In addition, petitioner proposes that—

(a) The cables to be used would be SHD-GC 5KV MSHA approved jacketed cables. These cables provide as safe a protection against potential for an ignition source as medium-voltage cables of the same type construction and better protection than low-voltage cables of non-shielded construction;

(b) The use of higher voltage motors results in lower current flow, thereby reducing heating of the cable;

(c) A sensitive ground fault and lockout protection circuit would be provided to detect, trip and lockout any cable with a ground fault current of 90 milliamperes. Therefore, this application of high-voltage cables is safer than that of medium-voltage cables under similar faulted conditions;

(d) All high-voltage cables supplying all prime movers located inby the last open crosscut are deenergized at any time this equipment is not in operation. This provides added protection through reduced exposure time.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 7, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11292 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-56-C]

Mayo Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mayo Resources, Inc., Box 399, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 1 (I.D. No. 15-15670) located in Johnson County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the return aircourse be examined in its entirety on a weekly basis.

2. Due to extreme adverse roof conditions, the return aircourse cannot be safely traveled and to require an examiner to perform weekly examinations would result in a diminution of safety.

3. As an alternate method, petitioner proposes to establish evaluations points at specific locations where the airflow would be monitored.

4. In addition, petitioner proposes that an additional return would be driven in the main aircourse toward the existing exhaust fan.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 7, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11293 Filed 5-15-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-63-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined on a weekly basis.

2. Due to deteriorating roof conditions, the seals located in the 5 west bleeder entries cannot be examined. To require weekly examination of the seals would expose examiners to unnecessary risks.

3. As an alternate method, petitioner proposes that—

(a) Air monitoring stations would be established at certain locations to evaluate the air coursed by the seals and through the bleeder system;

(b) The atmospheric monitoring system would be expanded to include the air monitoring stations which would consist of sensors to monitor the quantity of oxygen, and the methane content of the air;

(c) These air monitoring stations and approaches to such stations would be maintained in a safe condition. The sensors would be examined weekly and would be calibrated monthly to ensure that they are functioning properly; and

(d) If a sensor fails, a certified person would take measurements and perform tests at the station at least once each day that coal is produced on any shift; and

(e) Records of measurements and tests would be made by persons performing the evaluations or by the Atmospheric Monitoring System.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1990. Copies of the petition are available for inspection at that address.

Dated: May 7, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-11294 Filed 5-5-90; 8:45 am]

BILLING CODE 4510-43-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 April 25, 1990 through May 4, 1990. The last biweekly notice was published on May 2, 1990 (55 FR 18405).

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. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 15, 1990, 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 petition for leave to intervene. Requests for a hearing and petitions 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 amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the 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 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 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, 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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: March 2, 1990

Description of amendment request: The proposed amendment would modify the channel calibration requirements for Linear Power Level, Core Protection Calculator (CPC) delta-T Power, and CPC Nuclear Power signals with respect to the Calorimetric Calculated Power contained in Specification 3/4.3.1, Table 4.3-1 Note (2) of the Arkansas Nuclear One, Unit 2 Technical Specifications. The amendment would also add a time limit for declaring the channel inoperable.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

In accordance with the requirements of 10 CFR 50.92(c), the licensee submitted the following no significant hazards evaluation:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change reduces the amount of non-conservative error presently allowed in the PPS and CPC power indications and eliminates the requirement for channel calibration when the indications are already conservative setting does not increase the probability or consequences of any accident.

The proposed change also adds a time limit for channel calibration. The addition of this limit will not increase the probability or consequences of an accident previously evaluated, as this is a new requirement added to the specification. This requirement ensures that a channel deviation is corrected within a reasonable time frame to assure compliance with the assumptions of the safety analyses.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed change does not involve a new or modified physical structures, systems, or components. Rather, it affects only the permissible power calibration tolerance limits and the time requirement for calibration of out-of-tolerance channels. Both of these effects are conservative relative to current explicit requirements and therefore will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety

The margins of safety are defined by those Design Basis Events which credit the high linear power level trip; the DNBR trip; and the local power density trip, as described in the ANO-2 Safety Analysis Report. By reducing the amount of non-conservatism allowed in the safety system power indications, and by not requiring adjustments of these indications in the non-conservative direction when they are already conservative, the margin of safety is increased rather than reduced. Furthermore, the addition of a requirement to declare a channel inoperable if not calibrated within the specified time limit places more restriction on the allowed operation of the systems and as such does not involve a significant reduction in the margin of safety. The time limit specified (24 hours) is consistent with the current requirements on channel comparison.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists. The proposed amendment most closely matches example (ii) "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement."

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

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 amendment request: May 2, 1990.

Description of amendment request: The proposed amendments would include the following changes in accordance with the licensee's request dated May 2, 1990.

The requested change to the Technical Specifications would modify Surveillance Requirement 4.4.10.1.1 by revising the existing footnotes on pages 3/4 4-28 and 4-29 to replace the June 1990 and 1991 dates with a reference to the applicable Unit 1 and Unit 2 refueling outages.

The Nuclear Regulatory Commission (NRC) issued license Amendment Nos. 125 and 126 modifying the Unit 1 and 2 Technical Specification Surveillance Requirement 4.4.10.1.1 to link the completion of the reactor coolant pump (RCP) flywheel inspections to the RCP motor overhaul program. The original schedules called for completion of the RCP motor overhaul program and flywheel inspections to coincide with the completion of Unit 1 Refueling Outage (RFO) (June 1990) and Unit 2 RFO (June 1991). The dates for these refueling outages have been revised as a result of an extended shutdown of both units since the first half of 1989 to accomplish certain unrelated hardware evaluations, repairs and various administrative actions. The new schedules for Unit 1 RFO and Unit 2 RFO are fall 1991 and spring 1992, respectively, based on a Unit 1 startup in July 1990 and a Unit 2 startup in October 1990.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The results of the licensee's RCP flywheel inspections performed to date, and industry inspections in general, have been satisfactory. No significant degradation in RCP flywheel integrity is expected throughout the entire 40 year plant life cycle. These RCP flywheels have been idled for an extended interval due to the present outages. Consequently, even considering the additional time requested for the inspection completions, the flywheels will not have been subjected to any significant increase in wear or stress caused by normal operation. Additionally, the detailed level of inspection provided by linking the flywheel examinations to the RCP motor overhaul program are considered better than for a conventional in-place ultrasonic examination. Therefore, extending the initial inservice inspection interval does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Use of the modified specification would not create the possiblity of a new or different kind of accident from any accident previously evaluated.

The proposed change would result in an additional extension of approximately 18 months in the actual completion date for the licensee's RCP flywheel inspection program. However, the current inspection program (performance of the RCP flywheel inspection in conjunction with the RCP motor overhauls) was previously reviewed and accepted by the NRC and would remain unaffected by the proposed change. Also, no new hardware is being added to the plant as a result of this proposed change, no existing equipment is being modified, nor are any significantly different types of operations being introduced. Since no modifications to the intent of the Technical Specifications are being made, no new accident will be created by the proposed change.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

These RCP flywheels have been idled for an extended interval due to the present maintenance outage. Consequently, even considering the additional time requested for the inspection completions, the flywheels will not have been subjected to any significant increase in wear or stress caused by normal operation. The proposed change, therefore, does not involve a significant reduction in a margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silbert, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Carolina Power & Light Company et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: April 4, 1990

Description of amendment request: The proposed amendment revises the minimum critical power ratio (MCPR) safety limit specified in Technical Specification 2.1.2 from 1.04 to 1.07 for Cycle 8 operation. In addition, Technical Specification 5.3.1 has been revised to: (1) reflect the new fuel type (GE8X8NB-3) which will be inserted in the upcoming refueling outage, (2) more clearly identify existing fuel types, and (3) delete fuel types that will not be in the core during Cycle 8.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the following two (2) proposed changes and has determined that the requested amendments do not involve a significant hazards consideration for the following reasons:

Proposed Change 1

Revise the Minimum Critical Power Ration (MCPR) Safety Limit specified in Technical Specification 2.1.2 from 1.04 to 1.07.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The MCPR Safety Limit is set to protect the integrity of the fuel cladding from undergoing boiling transition following any design basis transient. The MCPR Safety Limit is defined as the critical

power ratio in the limiting assembly for which more than 99.9 percent of the fuel rods in the core are expected to avoid boiling transition considering the power distribution within the core and all uncertainties. The NRC has reviewed and accepted the application of the GE8X8NB (C-lattice) MCPR Safety Limit for the GE8X8NB-3 (D-lattice) fuel type in Amendment 21 to NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel" (GESTAR II). The MCPR Safety Limit value for C-lattice fuel is higher than the MCPR Safety Limit for D-lattice fuel. Therefore, the 1.07 MCPR Safety Limit for C-lattice fuel conservatively bounds the GE8X8NB-3 fuel (a D-lattice fuel type). As a result, the 1.07 MCPR Safety Limit assures that the fuel cladding protection equivalent to that provided with the 1.04 MCPR Safety Limit (i.e., 99.9 percent of all fuel rods in the core being expected to avoid boiling transition) is maintained.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. No plant controls or equipment are modified that will change the plant's response to any accident or transient as given in any current analysis. Also, the 1.07 MCPR Safety Limit does not allow any new mode or condition of plant operation different from that currently stated in the Updated Final Safety Analysis Report.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The MCPR Safety Limit is set to protect the integrity of the fuel cladding from undergoing boiling transition following any design basis transient. Margin is incorporated into the limit to allow for uncertainties in monitoring the core operating state and in calculating the critical power ratio so that 99.9 percent of all rods do not experience boiling transition following any design basis transient. The NRC accepted methodology used to derive the 1.07 MCPR Safety Limit applies the same criteria as that used to derive the current 1.04 MCPR Safety Limit, thus providing equivalent fuel cladding protection as that provided by the current MCPR Safety Limit of 1.04.

Proposed Change 2

Incorporate the GE8X8NB-3 fuel type into Specification 5.3.1 and delete the 8X8R and P8X8R fuel types that will not be used in the core during Cycle 8.

1. Use of the GE8X8NB-3 fuel type was generically found to be acceptable by the NRC in Amendment 21 to GESTAR II. The fuel design has been analyzed using approved methods documented in GESTAR II with the results being within accepted limits. As discussed in Proposed Change 1 above, the MCPR Safety Limit was selected to maintain the fuel cladding integrity safety limit. The GE8X8NB-3 fuel response to analyzed transients will be performed and appropriate operating limit MCPR values will be incorporated in the Core Operating Limits Report as required by Specification 6.9.3.1, thereby assuring the probability or consequences of an accident previously evaluated are not significantly increased.

The 8X8R and P8X8R fuel types will be removed from the Unit 1 core for Cycle 8 and replaced with the GE8X8NB-3 fuel type. The two removed fuel types will no longer be subjected to a potential design basis transient. Therefore, the probability or consequences of an accident previously evaluated are not significantly increased.

2. The GE8X8NB-3 fuel type was previously reviewed and found acceptable by the NRC for use as documented in Amendment 21 to GESTAR II. No new mode or condition of plant operation will be authorized by this change.

Therefore, the proposed change will not create the possibility for a new or different kind of accident from any accident previously evaluated.

The 8X8R and P8X8R fuel types will be removed from the Unit 1 core for Cycle 8 and replaced with the GE8X8NB-3 fuel type. Removal of the two fuel types will create no new mode or condition of plant operation. Therefore, the removal of the 8X8R and P8X8R fuel types will not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. The GE8X8NB-3 fuel type and its associated analysis methodologies were reviewed and found acceptable by the NRC in Amendment 21 to GESTAR II. The GE8X8NB-3 fuel type was analyzed using these methods to ensure required margins to safety (e.g., fuel cladding integrity safety limit and reactor coolant system integrity) are maintained. As discussed in Proposed Change 1 above, the MCPR Safety Limit was selected to maintain the fuel cladding integrity safety limit (i.e., that 99.9 percent of all fuel rods in the core by expected to avoid boiling transition). Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The 8X8R and P8X8R fuel types will be removed from the Unit 1 core for Cycle 8 and replaced with the GE8X8NB-3 fuel type. The two removed fuel types will no longer be subjected to a potential design basis transient. Therefore, removal of these two fuel types will not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

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 amendment request: March 29, 1990, as supplemented April 26, 1990

Description of amendment request: The proposed amendments would relocate Technical Specification (TS) Table 3.6-1, "Secondary Containment Bypass Leakage Paths," TS Table 3.6-2a, "Unit 1 Containment Isolation Valves," and TS Table 3.6-2b, "Unit 2 Containment Isolation Valves," to Catawba Final Safety Analysis Report (FSAR) Chapter 16, Selected Licensee Commitments (SLC) Manual. The proposed changes to TSs 1.7, 4.6.1.1, 3.6.1.2, 3.6.3, 4.6.3.1, 4.6.3.2, and 4.6.3.3, and TS Bases 3/4.6.4 would provide clarification and reflect the relocation of the above tables to FSAR Tables 16.6.1-1, 16.6.2-1, and 16.6.2-2, respectively.

Basis for proposed no significant hazards consideration determination: TS Table 3.6-1 lists containment penetrations and identifies their service, location and 10 CFR 50, Appendix J, test types. TS Tables 3.6-2a and 3.6-2b list containment isolation valves and identify their function and maximum allowed isolation time. The contents of existing TS Tables 3.6-1, 3.6-2a and 3.6-2b have been added to the Catawba FSAR as Tables 16.6.1-1, 16.6.2-1 and 16.6.2-2. Hence relocating the tables from the TSs to the FSAR would not change the Limiting Conditions for Operation (LCOs) or Surveillance Requirements (SRs).

In the event future changes are needed to this information in the FSAR, the proposed changes would be evaluated in accordance with the process described in 10 CFR 50.59. Under 10 CFR 50.59, proposed changes determined by the licensee not to involve an unreviewed safety question may be made without prior Commission approval. A report of such changes, including a summary of the safety evaluation of each, would be submitted annually to the Commission. The Commission has determined, as part of its implementation policy for TS improvements, that the subject penetrations and valves are appropriate for this process.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The Commission's staff has reviewed the licensee's proposed changes to the TSs and finds that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Because the proposed changes would not affect the LCOs, SRs, or operability requirements of the subject equipment, there would be no effect on a previously analyzed accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. Because there would be no changes in hardware or in the way the plant is operated, the potential for an unanalyzed accident would not be created. Also, no new failure modes would be introduced.

(3) Involve a significant reduction in a margin of safety. Because the proposed changes would not affect the consequences of any accident previously analyzed or create new or different ones, there would be no reduction in any margin of safety.

Accordingly, the Commission proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

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 amendment requests: April 23, 1990 (3 submittals)

Description of amendment request: The proposed amendments would revise the following Technical Specifications (TSs): (1) 4.9.4.2 regarding the containment purge system, (2) 3/4.6.1.8 regarding the annulus ventilation system, and (3) 3/4.7.7 regarding the auxiliary building filtered exhaust system. The associated Bases for TSs 3/4.6.1.8 and 3/4.7.7 would also be revised. The revisions would change the carbon adsorber test method to ensure that the filters for the above systems have a decontamination efficiency of greater than or equal to 95% under all anticipated operating conditions. The laboratory test of carbon samples would be conservatively tested at 95% relative humidity, instead of 70% which is currently required. Changing the allowable penetration for the carbon beds to 0.71% instead of 1% would improve the safety factor of the three ventilation systems discussed above.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed revisions would not involve a significant increase in the probability or consequences of an accident previously evaluated because the Final Safety Analysis Report (FSAR) Chapter 15 accidents were evaluated using a decontamination efficiency of 95%. Therefore, offsite and onsite doses would remain the same.

The proposed revisions would not create the possibility of a new or different kind of accident from any accident previously evaluated because they would not involve any physical changes to the station or its operating procedures, and would not introduce any new modes of operation.

Finally, the proposed revisions would not involve a significant reduction in a margin of safety because the FSAR Chapter 15 accident analyses were evaluated using a decontamination factor of 95%, and the offsite and onsite dose analyses would remain the same.

Based on the above considerations, the Commission proposes to determine that the proposed amendments, for all three systems discussed above, involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

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: April 24, 1990

Description of amendment request: The proposed amendments would provide for the relocation of tabular listings of containment penetration conductor overcurrent protective devices from the Technical Specifications (TSs) to Chapter 16 of the Final Safety Analysis Report (FSAR), "Selected Licensee Commitment Manual." Specifically, TS Table 3.8-1a, "Unit 1 Containment Penetration Conductor Overcurrent Protective Devices," and TS Table 3.8-1b, "Unit 2 Containment Penetration Conductor Overcurrent Protective Devices," would be deleted, and references to them in TSs 3/4.8.4 would be changed to reference FSAR Chapter 16. The TS Index would be updated to reflect this deletion.

Basis for proposed no significant hazards consideration determination: TS Tables 3.8-1a and 3.8-1b list devices (deenergizing circuit breakers and fuses) associated with the protection of containment electrical penetrations and penetration conductors due to excessive current. For each device number, the tables identify location, trip setpoint or continuous rating, response time, and the associated system powered by the circuit. The proposed amendments involve no substantive changes to the contents of the tables, only format changes due to their relocation from the TSs to the FSAR. TS 3.8.4 requires, as a limiting condition for operation (LCO), that the devices listed in these tables be maintained operable in Modes 1, 2, 3, and 4; TS 4.8.4 requires, as a surveillance requirement (SR), that the devices periodically be demonstrated operable and functionally tested. These LCOs and SRs would not be changed by the proposed amendments except to reflect the revised location of the tables. Consequently, the proposed changes are of an administrative nature.

In the event future changes are needed to this information in the FSAR, the proposed changes would be evaluated in accordance with the process described in 10 CFR 50.59. Under 10 CFR 50.59, proposed changes determined by the licensee not to involve an unreviewed safety question may be made without prior Commission approval. A report of such changes, including a summary of the safety evaluation of each, would be submitted annually to the Commission. Additionally, the licensee requires that all changes to the FSAR Chapter 16 receive Station Manager approval, and that, upon issuance, all revisions to FSAR Chapter 16 be distributed to holders of the Selected Licensee Commitment Manual, including the NRC.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The

Commission's staff has reviewed the proposed changes to the TSs and finds that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Because the proposed changes would not affect the LCOs, SRs, or operability requirements of the subject devices or the equipment they protect, there would be no effect on a previously analyzed accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. Because there would be no changes in hardware or in the way the plant is operated, the potential for an unanalyzed accident would not be created and no new failure modes would be introduced.

(3) Involve a significant reduction in a margin of safety. Because the existing TSs would continue to specify the same requirements with regard to operation and surveillance of these devices and no substantive change would be involved with hardware or operating procedures, and because future changes would be controlled in accordance with 10 CFR 50.59, existing margins of safety would not be decreased.

Accordingly, the Commission proposes to determine that the application for amendments 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

Georgia Power Company, Oglethrope Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: January 10, 1990

Description of amendment request: The amendments would modify the Technical Specifications (TSs) for Hatch Units 1 and 2 to add a voltage and frequency acceptance criteria for emergency diesel generator (EDG) testing consistent with BWR/4 Standard Technical Specifications (STS) and with Regulatory Guide (RG) 1.108 and RG 1.9; to add new surveillance requirements (SRs) to the Unit 1 TSs to make Unit 1 consistent with the guidance of RG 1.108; to modify surveillance testing of the swing EDG such that "double-testing" of the EDG would not be required; to modify the fuel oil storage requirements for the EDGs to require 33,000 gallons of fuel per EDG; to add additional testing requirements for the fuel oil transfer pumps for Unit 1; and to delete the Unit 2 requirement for multiple starts of the EDGs to test the capacity of the air start system. The changes desired by the licensee are contained in eight proposed changes to the TSs as discussed below.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's January 10, 1990, submittal provided an evaluation of the proposed changes with respect to these three standards.

Proposed change 1: This proposed change would add steady-state voltage and frequency acceptance criteria to several EDG SRs for both units, would add a requirement to energize emergency busses within 12 seconds, and would add a requirement to periodically verify the pressure in the Unit 1 air start receivers. The licensee evaluated this proposed change as follows:

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change adds acceptance criteria to periodic (monthly), six-month, and several 18-month EDG tests, makes the Unit 1 SRs consistent with the corresponding Unit 2 requirements and added a new SR for Unit 1. The proposed change will result in more complete testing. The EDG's will not be functionally altered and will continue to function as designed. Adding these additional test requirements and acceptance criteria will not reduce the reliability of the Unit 1 and Unit 2 EDGs.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated, because the EDGs and on-site electric power system will not be altered. The EDGs will continue to respond and function in the same manner.

The proposed change does not involve a significant decrease in the margin of safety because the EDGs will continue to respond as before to mitigate analyzed transients and accidents. Adding testing requirements and acceptance criteria will result in a more meaningful test, reduce inconsistencies between the Unit 1 and Unit 2 TS, and not reduce the EDG reliability.

Proposed change 2: This proposed change would modify the Unit 2 criteria for the 24-hour load test each 18 months and add a similar requirement for Unit 1. The licensee's evaluation of this proposed change is:

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change modifies test criteria for the Unit 2 EDGs and adds the test requirement and criteria to Unit 1. The proposed change will not modify the EDGs on either unit and they will continue to function as before to mitigate the consequences of an accident. Our EDG vendor has concurred that the specified load ranges on the EDGs are acceptable for an 18-month test, and will not degrade their reliability.

This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the on-site electric power system will not be altered. The EDGs will respond and function in the same manner as they do currently.

This proposed change does not involve a significant decrease in the margin of safety because the EDGs will continue to respond to mitigate analyzed transients and accidents as before. Our EDG vendor concurs that the load ranges specified will not degrade EDG reliability and adding the 24-hour load test requirement will make Unit 1 and Unit 2 testing requirements more consistent.

Proposed change 3: This proposed change would modify the criteria for the partial and full load rejection test now performed every 18 months for Unit 2, and would add similar requirements for Unit 1. The licensee's evaluation of this proposed change is:

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The revised loading criteria for both the full and partial load rejection tests are more restrictive than those presently in the Unit 2 TS, and represent new requirements for Unit 1. Voltage and frequency criteria are less stringent than those currently in the Unit 2 TS, but compatible with the STS, RG 1.9, and our EDG vendor recommendations. The EDGs will continue to function as before to mitigate the consequences of an accident.

This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the on-site electric power system will not be altered. The EDGs will respond and function in the same manner as they do currently.

This proposed change does not involve a significant decrease in the margin of safety because the EDGs will continue to mitigate analyzed transients and accidents as before. Testing requirements will be similar on all 5 EDGs and consistent with industry standards

and recommendations, and not degrade EDG reliability.

Proposed change 4: This proposed change would modify the present Unit 2 specification requiring a re-start of the EDG within 5 minutes following the 24-hour load test, to allow the re-start test to be performed immediately following any running of the EDG which raises the machine to normal operating temperature. A similar requirement would be added to the Unit 1 TSs. The licensee's evaluation of this proposed change is as follows:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The EDGs will function as before to mitigate analyzed transients and accidents.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the revised Unit 2 TS will still verify that the EDG can start and load properly when warm. The current testing requirement could result in unnecessary testing of the EDG because if the EDG failed its restart, the 24 hour load test would have to be rerun. This constitutes a new testing requirement for Unit 1 and therefore a conservative change.

This proposed change does not involve a significant decrease in the margin of safety because the EDGs will continue to respond as before to mitigate transients and accidents. Requirements for all 5 EDGs will be similar and will not result in abusive testing of the EDGs. Since the increased testing will not be abusive, EDG reliability will continue to be acceptable.

Proposed change 5: This proposed change would modify the TSs for both units to require a minimum volume of 33,000 gallons of fuel oil per EDG and would further modify the Unit 1 TS to require a minimum of 900 gallons of fuel oil in each EDG day tank, consistent with the present Unit 2 requirement. For both units, a note would be added to the TSs allowing the day tank fuel oil volumes to be less than 900 gallons for periods of up to 4 hours during verification of fuel oil transfer pump flow. The licensee's evaluation of this proposed change is as follows:

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Requiring all five EDG oil tanks to contain 33,000 gallons of oil and adding a SR to Unit 1 on fuel transfer pump operability and day tank volume are conservative changes. Allowing the associated EDG to be considered operable during pump flow testing will not increase the probability of consequences of an accident significantly since the alloted [sic] time is short (4 hours), the EDG would still function upon receipt of a start signal, and the testing improves the confidence that the fuel transfer pump is functioning properly.

This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the EDGs will respond and function as before.

This proposed change does not involve a significant decrease in the margin of safety. The EDGs will continue to mitigate analyzed transients and accidents. Testing requirements will be similar for all five EDGs, and will not decrease the reliability of the EDGs.

Proposed change 6: This proposed change would add a number of SRs to the Unit 1 TSs to make the Unit 1 TSs consistent with the Unit 2 TSs. The change also would delete a present Unit 1 requirement to verify load shedding of specific non-essential 600-volt loads. The licensee's evaluation of this proposed change is as follows:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Except for deleting one specific Unit 1 TS, the change adds testing requirements to the Unit 1 TS, but does not modify the EDGs in either unit. The change adds consistency to the testing requirements for all five EDGs. Deletion of existing Unit 1 TS 3.9.A.7.d and 4.9.A.7.d is justified because the requirement does not exist in the Unit 2 TS, or in the STS, and proper load shedding of the 600-V loads will be verified during the testing required by modified Unit 1 SR 4.9.A.7.b.1 and 4.9.A.7.c.1.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the EDGs will still function and respond in the same manner.

The proposed change does not involve a significant decrease in the margin of safety because the EDGs will respond and mitigate analyzed transients and accidents as they do currently. The new SRs will not degrade EDG reliability and will make the testing of all five EDGs consistent.

Proposed change 7: This proposed change would modify the testing requirements for the 1B EDG (swing diesel) such that it is tested on the same frequency as the other EDGs. Since the 1B EDG supports both units, it presently is subjected to double testing as required by the TSs for each unit. The licensee's evaluation of this proposed change is as follows:

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Unnecessary testing of the 1B EDG will be avoided, provided the purpose of the test is primarily to demonstrate the EDG capability to start and carry and reject loads. Many of the 18-month tests added to the Unit 1 TS (see Proposed Changes 1-6) will have to be performed every 18 months for *each* unit, effectively meaning the 1B will be tested twice every 18 months. The 1B EDG will still be tested at least as frequently as the other four EDGs, and will continue to respond and function as designed. Allowing control to be taken locally for while warming up and barring over the diesel engine is justified because the time period is brief, the practice enhances the reliability of the EDG, and also allows GPC to follow NRC and vendor guidance.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the 1B EDG will still function and respond in the same manner.

The proposed change does not involve a significant decrease in the margin of safety because the 1B EDG will respond to mitigate transients and accidents as it does currently. The 1B EDG will be tested throughly [sic] to ensure high reliability. Taking control locally for brief periods of time allows GPC to test the EDG in a manner prescribed by the NRC and the EDG vendor.

Proposed change 8: This proposed change would delete the existing Unit 2 TS that requires the EDG to be started five times in a row to verify the capacity of the air start receivers. The licensee's evaluation of this proposed change is as follows:

The proposed change does not involve a significant increase in the probability of [sic] consequences of an accident previously evaluated. Deleting the requirement will reduce the number of unnecessary EDG tests. The primary reason for the test is to verify adequate sizing of the air start system. This is not expected to change.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the EDGs will function and respond in the same manner.

The proposed change does not involve a significant decrease in the margin of safety because the EDGs will respond to mitigate transients and accidents as they do currently. The capacity of the air start system is not expected to change unless modifications are performed, so the test is not normally necessary.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluations with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: March 2, 1990.

Description of amendment request: The amendments would modify the Technical Specifications (TSs) for Units 1 and 2 to: (1) allow a 24-hour period of time for Unit 1 to meet the requirements for single-loop operation (SLO) before entering the 12-hour shutdown limiting conditions for operation (LCO); (2) allow placing an inoperable channel of a required Unit 1 Core and Containment Cooling System (CCCS) subsystem in the tripped condition or declaring the associated CCCS inoperable within 1 hour; (3) change the Unit 1 definition of Surveillance Requirement to indicate that performance of a surveillance requirement within the specified surveillance interval constitutes compliance with the operability requirement for an LCO; (4) change a number of Unit 1 TSs and associated Bases to delete the requirement to perform additional surveillances when it is determined that the associated redundant components and/or subsystems are operable; (5) change Unit 1 TS Table 3.2-8 to specify that one operable channel per trip system is required instead of the two channels now specified, modify the "Remarks" section to indicate that a trip signal will result in actuation of the Main Control Room Environmental Control System (MCRECS) in the pressurization mode and not in the isolation mode, and modify TS Table 4.2-8 to delete Logic System Functional Test (LSFT) 6 and change LSFT 5 to MCRECS Control Room Pressurization Mode Actuation; (6) delete a number of individual surveillance requirements for pumps and valves, and change testing frequencies and post-maintenance testing requirements in accordance with testing required by American Society of Mechanical Engineers (ASME) Section XI pursuant to 10 CFR 50.55a(g); (7) make a number of purely administrative editorial changes to the Unit 1 TSs and associated Bases; (8) modify the Unit 1 TSs 3.5.J.2.b through 3.5.J.2.e to delete any reference to the diesel generators having to be operable and add information requiring the other Plant Service Water (PSW) components to be operable; (9) modify Unit 1 TSs 4.5.D.1.b and 4.5.E.1.c to clarify where the pressure of the steam supply is to be measured for testing the high pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) systems, and specify a range of pressures that must be adhered to for the test performance; and (10) make a number of purely administrative, editorial changes to the Unit 2 TSs.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee's March 2, 1990, submittal provided an evaluation of the proposed changes with respect to these three standards.

Proposed change 1: This proposed change would allow Unit 1 a 24-hour period of time to meet the requirements for single-loop operation before entering the 12-hour shutdown LCO. The licensee's evaluation of this proposed change is as follows:

1. This change does not involve a significant increase in the probability or consequences of an accident, previously evaluated, because only operation of the recirculation system and equipment in a mode that has been previously analyzed is allowed. It should also be noted that, prior to approval of continuous SLO, the Unit 1 and Unit 2 Technical Specifications allowed operation with a single pump for up to 24 hours without taking any compensatory measures. This change is consistent with the BWR/4 STS.

2. This change does not create the possibility of an accident or malfunction of a different kind from any previously analyzed, because no new modes of plant operation are introduced, and no new accident types can result.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way. This change to the specification requirement is consistent with the Unit 2 TS approved in Amendment 77.

Proposed change 2: This proposed change would allow an inoperable channel of a required CCCS subsystem to be placed in the tripped condition without declaring the associated CCCS subsystem inoperable, provided at least one trip system is maintained with the minimum number of channels operable. The licensee's evaluation of this change is as follows:

1. This change does not involve a significant increase in the probability or the consequences of an accident previously evaluated. However, due to the inoperable channel being placed in the tripped condition, there could be a slight increase in the probability of a challenge to a safety system due to a spurious trip. This will be minimized, since plant personnel will take all necessary actions to restore the inoperable channel as soon as practical. Also, the Limiting Conditions for Operation in Unit 1 Technical Specification 3.5 assure the operability of CCCS subsystems under all conditions for which these cooling capabilities are required.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because no new modes of plant operation are introduced and no physical modifications to plant design are being made.

3. Margins of safety are not significantly reduced by this change. Based on a review of Unit 1 FSAR Section 4.7 (Reactor Core Isolation Cooling System), Section 6.0 (Core Standby Cooling Systems), and Section 7.4 (Core Standby Cooling Systems Control and Instrumentation), placing one inoperable channel of one trip system in the tripped condition will not significantly reduce any margin of safety. No single control failure will prevent the combined cooling systems from providing the core with adequate cooling.

Proposed change 3: This proposed change would eliminate the requirement to perform additional surveillances on redundant components and subsystems of associated components determined to be inoperable. The licensee provided the following evaluation of this change:

1. This change does not involve a significant increase in the probability or the consequences of an accident previously evaluated, because equipment operation is not affected, only testing requirements. Deleting additional surveillance requirements due to inoperable components and subsystems eliminates unnecessary challenges to the redundant components and subsystems associated with the inoperable components. In addition, the normal periodic scheduled surveillance requirements will continue to demonstrate operability and availability of redundant components and subsystems.

2. This change does not create the possibility of a new or different kind of accident from any previously evaluated, because no new modes of plant operation are introduced and no physical modifications to plant design are being made.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way. This proposed change is consistent with the STS for system operations with inoperable components.

Proposed change 4: This proposed change would delete requirements to perform additional surveillances when associated redundant components and/or systems have been determined to be inoperable. The licensee's evaluation of this change is as follows:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated, because equipment operation is not affected, only testing requirements. The proposed amendment reduces unnecessary challenges to redundant components, thus resulting in unnecessary wear and tear due to operating the components in excess of the normally scheduled surveillances. The only applicable surveillance requirements are those normally performed in accordance with ASME Section XI, pursuant to 10 CFR 50.55a.

2. This change does not create the possibility of an accident or malfunction of a different kind from any previously analyzed, because equipment operation is not affected. Thus, no new modes of plant operation are introduced, and no new modes of failure are created.

3. Margins of safety are not significantly reduced as a result of this change, because equipment operability is adequately assured by inservice inspection/testing in accordance with ASME Section XI requirements, pursuant to 10 CFR 50.55a.

Proposed change 5: This proposed change would change Unit 1 TS Table 3.2-8 to indicate that only one operable channel is required per trip system, would revise the "Remarks" section to indicate that a trip signal will result in actuation of the MCRECS in the pressurization mode and not the isolation mode, and would revise TS Table 4.2-8 to delete LSFT 6 and change the title of LSFT 5. The licensee provided the following evaluation of this change:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change reflects current design and does not alter a previously evaluated accident in any way. The Technical Specifications Bases and the FSAR clearly indicate the required operable channels should be "1" rather than "2". In Table 3.2-8, the change in wording of LSFT 5 from the Control Room Isolation Mode is acceptable, since that mode of operation has been previously deleted from the plant design per Amendment 156 to the Plant Hatch Unit 1 TS. In addition, the deletion of LSFT 6 from Table 4.2-8 is also administrative, since it is now covered within the scope of LSFT 5.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because equipment operation is not affected. Thus, no new modes of failure are created.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way. The change is administrative in nature.

Proposed change 6: This proposed change would delete TS surveillance requirements for some pumps and valves and change test frequencies and post-maintenance testing requirements for equipment that is normally tested and inspected in accordance with ASME Section XI. The licensee's evaluation of these changes is as follows:

1. This change does not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated, because equipment operation is not affected, only testing requirements. The only applicable surveillance requirements are those normally performed in accordance with ASME Section XI, pursuant to 10 CFR 50.55a. For the RCIC System, existing Unit 1 Specification 4.5.E.1.c requires a pump low test every 3 months.

2. This change does not create the possibility of an accident or malfunction of a different kind from any previously analyzed, because equipment operation is not affected. Thus, no new modes of plant operation are introduced, and no new modes of failure are created.

3. Margins of safety are not significantly reduced by this change, because equipment operability is adequately assured by inservice inspection/testing in accordance with ASME Section XI testing requirements, pursuant to 10 CFR 50.55a. In addition, valve lineups are assured due to the addition of a monthly surveillance to verify the valves are in their proper position.

Proposed change 7: This proposed change would make editorial changes to the Unit 1 TSs. The licensee provided the following evaluation:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the change is administrative or editorial in nature and will not alter in any way a previously evaluated accident.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because equipment operation is not affected. Thus, no new modes of failure are created.

3. Margins of safety are not significantly reduced by this change, because these safety analysis assumptions or equipment performance are not affected in any way.

Proposed change 8: This proposed change would delete references to the diesel generator having to be operable from Unit 1 TSs 3.5.J.2.b through 3.5.J.2.e and would add information to require operability of the other PSW components. The licensee evaluated this proposed change as follows:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Diesel generator operability is assured by Specification 3/4.9, and PSW component operability is assured by Specification 3.5.J.2.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because equipment operation is not affected. Thus, no new mode of failure is created.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way. Therefore, since equipment performance or safety analysis assumptions are not changed, margins of safety will not be significantly reduced.

Proposed change 9: This proposed change would clarify where the pressure of the steam supply is to be measured for testing the HPCI and RCIC turbines, and would specify a range of pressures required for conducting the tests. The licensee provided the following evaluation of this change:

1. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the change clarifies Technical Specifications information which is already provided in the FSAR. This change will not alter a previously evaluated accident in any way.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because equipment operation is not affected. The change only clarifies information presented in Technical Specifications to assure equipment is operated properly; thus, no new modes of failure are created.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way, and the performance of the equipment assumed in safety analysis is not affected.

Proposed change 10: This proposed change would make editorial changes to the Unit 2 TSs. The licensee evaluated this change as follows:

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the change was made for clarity and is administrative in nature. The changes will not alter a previously evaluated accident in any way.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated, because equipment operation is not affected. Thus, no new mode of failure is created.

3. Margins of safety are not significantly reduced by this change, because safety analysis assumptions are not affected in any way.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluations with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and

Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of amendment request: April 11, 1990

Description of amendment request: The proposed amendment would revise a surveillance requirement in Technical Specification (TS) 4.0.2 by deleting the requirement that the combined time interval for any three consecutive surveillance intervals is not to exceed 3.25 times the specified surveillance interval. The revised TS 4.0.2 would continue to require that "Each Surveillance Requirement shall be performed within the specified time interval with a maximum allowable extension not to exceed 25% of the surveillance interval." Associated Bases 4.0.2 would be revised accordingly.

Basis for proposed no significant hazards consideration determination: On August 21, 1989, the NRC issued Generic Letter (GL) 89-14, "Line-Item Improvements in Technical Specifications-Removal of the 3.25 Limit on Extending Surveillance Intervals." The GL provided guidance to licensees and applicants for the preparation of a license amendment request to implement a line-item improvement in TSs to remove the 3.25 limit on extending surveillance intervals. The GL provided an alternative to the requirements of TS 4.0.2 to remove an unnecessary restriction on extending surveillance requirements and to provide a benefit to safety when plant conditions are not conducive to the safe conduct of surveillance requirements. By letter of April 11, 1990, Georgia Power Company responded to GL 89-14 and requested a license amendment consistent with the GL guidance.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The Commission's review of the proposed amendment indicates that:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Experience shows that the extension of surveillance intervals enhances safety by removing the need to perform a surveillance during plant conditions unsuitable to its performance, such as during transient plant conditions or when safety systems are out of service because of ongoing surveillance or maintenance activities. Limiting the maximum combined interval to 3.25 times the interval for three consecutive intervals does not increase safety because extending surveillance 25% presents a small risk in contrast to the alternative of a forced shutdown or performance during unsuitable plant conditions. This position on the safety impact of removing the 3.25 limit is supported by industry experience and documented in GL 89-14. Since the risk posed by this change is less than the risk associated with the existing limit, operating in accordance with the proposed change does not involve a significant increase in the probability or consequences of any accident previously analyzed.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removing the 3.25 limit on increasing surveillance intervals 25% reduces the possibility of a surveillance interval forcing a shutdown, or forcing the performance of a surveillance during unsuitable plant conditions. Its removal thereby reduces the risk associated with either alternative. It does not change plant equipment configuration or operation and is administrative in nature. Hence, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

Removing the 3.25 limit on increasing surveillance intervals 25% has been shown by industry experience, as documented in GL 89-14, to decrease risk when contrasted with the alternative actions potentially compelled by allowing it to remain in effect. Because risk is reduced by this proposed change, it does not involve a significant reduction in the margin of safety.

Accordingly, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

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: October 25, 1989

Description of amendment request: Technical Specification Table 4.3-1 (Reactor Trip System Instrumentation Surveillance Requirements) Function Unit 2a requires monthly and quarterly channel calibration for both incore to excore axial flux difference single point comparison, and the incore to excore calibration. The licensee has proposed that the surveillance tests be based on effective full power days (EFPD) instead of calendar days.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change involves the frequency of the single point comparison and calibration. With the proposed change the single point comparison and calibration would be performed on the basis of days at effective full power versus calendar days above 15% RTP or 75% RTP. EFPD are representative of core burnup and changes in the flux profile, and it is the

change in the flux profile that primarily effects calibration and dictates when the excore neutron detector single point comparison and calibration should be performed. Since this change in frequency is a more accurate indication of core burnup and when the comparison and calibration should be performed, the consequences of an accident are not significantly increased.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The only accident possible involves a reactivity anomaly and the resulting detection of this anomaly by the excore detectors. The proposed change does not involve a change in any setpoints for the trips generated from the excore neutron detectors. This proposal changes only the frequency of performing the single point comparison and the calibration for the excore detectors. This change will result in the single point comparison and the calibration being performed on a frequency more closely related to core burnup and the resulting flux profile change.

The proposed change does not involve a significant reduction in the margin of safety. The proposed change will allow the single point comparison and the calibration to be performed on a basis of EFPD which is related to core burnup and the change in flux profile. This will allow the excore neutron detectors single point comparison and calibration frequency to be based on the relation to core burnup and the change in flux profile which are the effects that actually change the calibration. Basing the surveillance on core burnup is more reflective of the changes occurring. There are no setpoint changes associated with the proposed change.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposed to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

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: August 30, 1989

Description of amendments request: The proposed amendments revise the Cook Technical Specifications (TS) to address three specific problems with Section 3.0 and 4.0 of the TS which were addressed in Generic Letter 87-09, make editorial and administrative changes throughout sections 3.0 and 4.0, and expanded the Bases section so that it reflects the new changes and better explains the rationale behind Section 3.0 and 4.0 TS. The three specific problems addressed by Generic Letter 87-09 are: (a) Unnecessary restrictions of mode changes (changes involving TS 3.0.4); (b) Unnecessary shutdowns caused by inadvertent surpassing of surveillance intervals; and (c) Conflicts between specifications 4.0.3 and 4.0.4 related to mode changes.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Criterion 1

Although the proposed changes relax some present T/S requirements, the changes are supported by Generic Letter 87-09 and Rev. 4 of the Standard T/Ss. The addition of a T/S 3.0.4 exemption to Unit 1 T/S 3.3.3.5 is consistent with the Unit 2 T/Ss and the Standard T/Ss, and will correct an oversight in the Unit 1 T/Ss that was corrected in later versions of the Standard T/Ss. It is therefore our belief that any increase in the probability or consequences of a previously evaluated accident, or a reduction in a margin of safety, would not be significant.

Criterion 2

The proposed changes do not involve any physical changes to the plant or any changes to the plant's operating configurations. Additionally, the changes are supported by Generic Letter 87-09 and Rev. 4 to the Standard T/Ss. Thus, we believe that the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

Although the proposed changes relax some present T/S requirements, the changes are supported by Generic Letter 87-09 and Rev. 4 of the Standard T/Ss. The addition of a T/S 3.0.4 exemption to Unit 1 T/S 3.3.3.5 is consistent with the Unit 2 T/Ss and the Standard T/Ss, and will correct an oversight in the Unit 1 T/Ss that was corrected in later versions of the Standard T/Ss. It is therefore our belief that any increase in the probability or consequences of a previously evaluated accident, or a reduction in a margin of safety, would not be significant.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a 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: Dominic C. DiIanni, Acting.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 5, 1990

Description of amendment request: The proposed amendment would revise the Duane Arnold Energy Center Technical Specifications (DAEC TSs) to eliminate the need for requesting cycle-specific changes to the TSs for future core reloads.

In accordance with the guidance provided in NRC Generic Letter (GL 88-16, the proposed revision requires the use of NRC-approved methodologies for calculating the numeric values of cycle-dependent parameters. These parameters will be deleted from the TSs and included in a formal report entitled, "Core Operating Limits Report." This report will be defined in Section 1.0 of the TSs and requirements for its preparation will be included in Section 6.0, Administrative Controls. Copies of this report will be submitted to the NRC upon issuance. In addition, other administrative changes are proposed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or

consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards consideration using the Commission's standards.

(1) The proposed change will not involve any significant increase in the probability or consequences of an accident previously evaluated because the removal of the cycle-specific parameter limits from the DAEC Technical Specifications has no influence on the consequences or the probability of a previously evaluated accident. The cycle-specific parameter limits, although not in the TSs, will continue to apply and be followed in the operation of the DAEC. The proposed amendment will require the same actions to be taken when or if limits are exceeded as are required by the current Technical Specifications.

Each accident previously addressed will continue to be examined with respect to changes in cycle-specific parameters, which are obtained from application of NRC approved reload design methodologies, to ensure that transient evaluations of reloads are bounded by previously accepted analyses. This examination, which will be performed in accordance with the requirements of 10 CFR 50.59, ensures that future reloads will not involve an increase in the probability or consequences of an accident previously evaluated.

The MAPLHGR, LHGR and MCPR surveillance requirements are revised for improved clarity; none of the surveillance requirements are changed. The deletion of the requirement to determine MCPR every 12 hours during a Limiting Control Rod Pattern achieves consistency with the LHGR and MAPLHGR surveillances and eliminates an unnecessary requirement. TSs still require that MCPR be determined daily and after changes in power level or distribution which can affect the MCPR value. TSs Section 3.3.B.5 still requires that with a Limiting Control Rod Pattern. Therefore, the Surveillance Requirement that has been removed is unnecessary and redundant to other requirements.

The Surveillance Requirement changes and the changes to the Bases are administrative in nature and cannot significantly increase the probability or consequences of a previously evaluated accident.

(2) The removal of the cycle-specific parameters will have no impact on the probability or consequences of any accidents. The cycle-specific parameters are calculated using NRC approved methodologies and will be available in the CORE OPERATING LIMITS REPORT. The Technical Specifications will continue to require operation within the stated limits and appropriate actions will be taken when or if the limits are exceeded.

The changes to the Surveillance Requirements and Bases are administrative and cannot create the possibility of a new or different kind of accident. The TSs still require that MAPLHGR, LHGR and MCPR be determined daily (at power levels 25%) and MCPR must still be determined after power level or distribution changes which can affect its value. The change to Bases Section 3.12.C.1 only clarifies our use of a setpoint methodology for determining inputs to the transient analysis.

(3) The margin of safety will not be affected by the removal of the cycle-specific patameter limits from the TSs because the proposed amendment still requires operation within the core limits determined by use of NRC-approved reload design methodologies. The appropriate actions to be taken when or if limits are violated remain unchanged.

The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, a 10 CFR 50.59 Safety Evaluation will be done for each future reload to assure that operation within the cycle-specific parameter limits will not involve a significant reduction in a margin of safety.

The other changes are administrative only and cannot affect the margin of safety.

The NRC staff has reviewed the licensee's proposed no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 3, 1990

Description of amendment request: This amendment would add a statement to Technical Specification 1.I.2 that reads "Calibration of instrument channels with resistance temperature detector (RTD) or thermocouple sensors shall consist of verification of operability of the sensing element and adjustment, as necessary, of the remaining adjustable devices in the channel."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards evaluation:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation

The additional language provides clarification as to the intent of the term "Instrumentation Calibration" for those channels with RTDs and thermocouples as the sensing element. The methodology described ensures that any credible failure or misadjustment of the temperature channel is detected and corrected. This methodology is consistent with general industry practice and has been previously reviewed and found acceptable by the NRC staff on another docket. As such, the change does not represent a modification from the calibration practices intended by the Technical Specifications, and therefore, does not increase the probability or consequences of any previously evaluated accident.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Evaluation

The proposed amendment only adds a statement to the definition of "Instrument Calibration" to clarify the term Instrument Calibration for those channels with RTDs and TCs as the sensing element. The change does not result in any modifications to the plant or system operations and no safety-related equipment is altered. The requested change does not create any new mode of plant operation and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

The safety margin is maintained since the proposal does not modify actual calibration practices but rather, clarifies the current intent of the Technical Specifications. The proposed amendment does not alter any plant operating setpoints or limiting safety system settings and does not involve a significant reduction in the margin of safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations

determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a 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 68601-0499

NRC Project Director: Frederick J. Hebdon

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: December 27, 1988, as amended August 28, 1989 and November 17, 1989.

Description of amendment request: The proposed amendment would revise Technical Specifications 3.1.1 and 4.1.1 (Control Rod System), and associated Bases to provide testing and Limiting Condition for Operation requirements which will demonstrate and ensure that the Scram Discharge volume is operable. The test to demonstrate operability will also ensure that the instrument lines are free of blockage and can perform their safety functions. These changes are proposed to address Surveillance Criterion 3 of the June 24, 1983 Confirmatory Order issued on June 24, 1983.

Additionally, by this amendment, the list of initiating signals for the scram discharge system vent and drain valves in Table 3.2.7 would be replaced with a more concise list. The previous listing in Table 3.2.7 was intended to include the same parameters that initiate reactor scram as identified in Table 3.6.2a. "Instrumentation That Initiates Scram." All reactor scram signals, automatic or manual, initiate closure of the scram system vent and drain valves. This change is proposed to avoid having to modify Table 3.2.7 if changes are made in the parameters listed in Table 3.6.2a. Therefore, the changes to Table 3.2.7 are considered administrative.

This amendment would also combine changes made per Amendments No. 43 and No. 44 to correct an administrative error documented in Correction Letter dated April 10, 1989. Therefore, the change is administrative in nature.

As submitted by the licensee in their November 17, 1989 letter, the reference "A.I.P.O" (Automatically Initiated Power Operated) in a footnote on Table 3.2.7 would be deleted. The footnote is no longer applicable, therefore, the change is only administrative in nature.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis in its August 28, 1989 submittal:

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendment incorporates a commitment to periodically demonstrate that the SDV and instrument piping is free of blockage. The LCO for the SDV vent and drain valves will insure these valves will perform their required function. The fill/drain test will assure that sufficient volume is available in the SDV so that it will accommodate water drained from the control rod drives when a reactor scram occurs. These changes will not increase the probability or consequences of an accident previously evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment provides for testing plant equipment (SDV) to demonstrate that it is capable of performing its intended function when required. The SDV will not be subjected to conditions other than those for which it was designed. The SDV vent and drain valves close to prevent potential leakage. Consequently, there is no probability of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not involve a significant reduction in a margin of safety. The SDV vent and drain valves will be demonstrated to be operable and will not be subjected to conditions other than those for which they were designed. There will be no reduction in any margin of safety as a result of performing this test.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Additionally, the licensee proposes to (1) replace the list of initiating signals for the scram discharge system vent and drain valves in Table 3.2.7 with a more concise list, (2) combine changes made per Amendments No. 43 and No. 44, and (3) delete a footnote on Table 3.2.7 which no longer applies.

1. The current list of initiating signals in Table 3.2.7 is contained in the list of parameters that initiate a scram in Table 3.6.2a. All reactor scram signals, automatic or manual, initiate closure of the scram system vent and drain valves. Therefore, the more concise terminology "automatic or manual reactor scram" is the equivalent of listing the initiating signals that initiate closure of the scram system vent and drain valves. Accordingly, this replacement does not change the safety analyses, plant procedures or hardware and accordingly 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.

2. Amendment No. 44 was issued without the changes made to Table 3.2.7 per Amendment No. 43 as documented in the Correction Letter dated April 10, 1989. Specifically, the addition of new valves in Table 3.2.7 per Amendment No. 43 did not appear on Table 3.2.7 when Amendment No. 44 was processed. The proposed amendment will correct this administrative error and combine the changes made per Amendments No. 43 and No. 44. This correction does not change the safety analysis, plant procedures or hardware and accordingly 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.

3. The licensee proposes also to delete the note "A.I.P.O.—Automatically Initiated Power Operated." The acronym A.I.P.O. does not appear anywhere in the text. Therefore, the note no longer applies and its deletion does not change the safety analysis, plant procedures or hardware and accordingly 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.

Therefore, the staff proposes that the amendment will not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Oswego County, New York

Date of amendment request: April 10, 1990

Description of amendment request: The proposed amendment would revise Technical Specifications Section 1.0 and Specifications 3/4.2.1, 3/4.2.2, 3/4.2.3, 3/4.2.4, 3/4.4.1, Table 3.3.6-2, supporting BASES and Sections 5.3, and adds Section 6.9.1.9 to Appendix A of Facility Operating License No. NPF-69. The amendment would replace the values of cycle-specific parameter limits with a reference to the Unit 2 Core Operating Limits Report, which contains the values of those limits. Bases would be revised to be consistent with changes made in the specifications. Technical Specification 5.3, description of the Fuel Assemblies and Control Rod Assemblies, would be revised to be non-fuel type specific. The Core Operating Limits Report has been included in the Definitions Section 1.0 of the Technical Specifications (TS) to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with the Specification 6.9.1.9. This specification requires that the Core Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. Generic Letter 88-16, dated October 4, 1988, from the NRC provided guidance to licensees on request for removal of the values of cycle-specific parameter limits from TS. The licensee's proposed amendment is in response to this Generic Letter. The licensee's application of April 10, 1990 supercedes in its entirety, an application dated November 9, 1989, which has not been previously noticed in the **Federal Register.**

Basis for proposed no significant hazards consideration determination: The staff has has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed revision to the Technical Specifications are in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of of the values of cycle-specific parameter limits from TS. The establishment of these limits in accordance with an NRC-approved methodology and the incorporation of of these limits into the Core Operating Limits Report will ensure that proper steps have been taken to establish the values of these limits.

Furthermore, the submittal of the Core Operating Limits Report will allow the staff to continue to trend the values of these limits without the need for prior staff approval of these limits and without introduction of an unreviewed safety question. The revised specifications, with the removal of the values of cycle-specific parameter limits and that addition of the referenced report for these limits, does not create the possibility of a new or different kind of accident from those previously evaluated. They also do not involve a significant reduction in the margin of safety since the change does not alter the methods used to establish these limits.

Consequently, the proposed change on the removal of the values of cycle-specific limits does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Because the values of cycle-specific parameter limits will continue to be determined in accordance with an NRC-approved methodology and consistent with the applicable limits of the safety analysis, these changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendment does not alter the requirement that the plant be operated within the limits for cycle-specific parameters nor the required remedial actions that must be taken when these limits are not met. While it is recognized that such requirements are essential to plant safety, the values of limits can be determined in accordance with NRC-approved methods without affecting nuclear safety. With the removal of the values of these limits from the Technical Specifications, they have been incorporated into the Core Operating Limits Report that is submitted to the Commission. Hence, appropriate measures exist to control the values of these limits. These changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards consideration.

Based on the preceding assessment, the staff proposes that the amendment involves no significant hazards considerations.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: April 27, 1990

Description of amendment request: Niagara Mohawk Power Corporation, holder of Facility Operating License No. NPF-69, requests that certain changes be made to the Technical Specifications (TS) set forth in Appendix A to that license. Specifically, the change would modify Technical Specification (TS) 4.0.2 to provide, on a one-time basis, a delay in the conduct of specifically identified surveillance tests (STs) so that the beginning date of the next refueling outage may be extended by about three weeks. These STs include a category of twelve types of tests which cannot be conducted at power and a further category of eleven types of tests which cannot be conducted during the initial phases of the refueling outage. The types of tests include calibrations of instrument setpoints and components, logic system functional tests, instrument response time tests, leak rate tests, battery service tests, position indication tests, and a functional test of the vacuum breaker setpoint.

The proposed delay in the conduct of these STs would represent an approximate increase of five percent or less in the allowable TS testing interval. The licensee has submitted a detailed discussion of the previous surveillance testing performance of each of the types of components in support of the

proposed surveillance interval extension.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee provides the following analysis in support of its application.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment involves an increase in the allowed surveillance interval for a limited number of plant components in various plant systems. Assurance of the continued operability of the components proposed for extended intervals has been demonstrated. Sufficient margin exists in the design basis for each system to accommodate the increased interval between tests. The aggregate effect of the increased surveillance intervals has been evaluated and found to have no resulting impact on system reliability or performance. Thus, the amendment does not adversely affect the response of any component or system to previously analyzed accidents, thereby assuring no significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed amendment only involves an increase in the maximum surveillance interval for a limited number of plant components. Continued operability and reliability of the subject components has been demonstrated. All safety-related systems and components will remain within their applicable design limits. Thus, systems and component performance is not adversely affected by this change and plant post-accident response to previously evaluated accidents remains within previously assessed limits. Further, assurance exists that the design capabilities of those systems and components are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident. Therefore, the operation of Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed change will not cause existing Technical Specification operational limits or system performance criteria to be exceeded. Therefore, the margins of safety established by the Technical Specifications are not significantly reduced by this amendment.

Reasonable assurance exists that actual trip setpoints will remain conservative with respect to their allowable values and that the protective functions associated with each channel are completed within the time limit assumed in the safety analysis. The partial testing of the logic systems maintains a reasonable level of confidence in the operability of the required logic. The low combined Type B and C leakage rate, the small percentage of that leakage rate that nine deferred valves on Table 3.6.1.2-1 represent, and the relatively small increase in the surveillance interval provide continued assurance of a leak tight Unit 2 containment, thereby minimizing the release of radioactive materials from the containment atmosphere in the event of an accident. The low leak rates observed for the pressure isolation valves provide confidence in the sealing capability of the valves for the extended interval.

The batteries have a design margin of over 20% for Division 1 and 30% for Division II. It is unreasonable to postulate undetected degradation in the batteries that could impact the design rating in such a short period of time. Thus, reasonable assurance exists that sufficient power will be available for the safe shutdown of the facility and the mitigation and control of an accident condition within the facility.

An interval of twenty-three (23) months for position indication verification complies with IWV-3300 and provides reasonable assurance that position indication will be maintained for accident monitoring purposes. The testing history of the vacuum breakers, combined with the passive design of the opening mechanism and the short extension in their surveillance interval, provide assurance that the vacuum breaker opening setpoint will not be exceeded in the additional seven (7) days of surveillance interval.

Finally, it is overly conservative to assume that systems or components are inoperable at the end of the normal surveillance interval. The vast majority of surveillances demonstrate that systems or components are in fact operable. Extending the surveillance intervals for a variety of surveillance tests on a limited number of components in various systems will have no significant effect on the aggregate performance of the plant safety systems. Therefore, operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: December 11, 1989 as supplemented by letter dated March 2, 1990

Description of amendment request: The proposed amendment would modify Millstone Unit 3 Technical Specification (TS) 3/4.5.1, "Accumulators," to increase the allowable out-of-service time (for reasons other than a closed discharge isolation valve) from 1 hour to 8 hours.

This amendment was previously noticed in the **Federal Register** on February 21, 1990 (55 FR 6109). However, due to the supplemental information provided by the licensee by letter dated March 2, 1990, the staff has decided to renotice the proposed amendment.

Basis for proposed no significant hazards consideration determination: The Millstone Unit 3 reactor coolant system is equipped with four large tanks pressurized with nitrogen and containing borated water. In the event of a loss-of-coolant accident (LOCA) that causes a significant decrease in reactor coolant system pressure, these "accumulator" tanks discharge their borated water into the reactor coolant system. The accumulator's function is to temporarily reflood the reactor coolant system and thus supply coolant until the Emergency Core Cooling System can begin operation.

At the present time, TS 3.5.1 requires that, during Modes 1, 2 and 3, each accumulator be operable with the following conditions being met:

a. The isolation valve open and power removed,

b. A contained borated water volume of between 6618 and 6847 gallons,

c. A boron concentration of between 2200 and 2600 ppm, and

d. A nitrogen cover-pressure of between 636 and 694 psia.

If one accumulator is inoperable for reasons other than a closed isolation valve, TS 3.5.1 would require restoration of the inoperable accumulator to operable status within 1 hour or place

the plant in Hot Standby within 6 hours. The licensee has requested that the 1 hour restoration time be extended to 8 hours.

The licensee has considered the increase in risk associated with an increase in unavailability of an accumulator from 1 hour to 8 hours. Using an NRC staff-approved probabilistic risk assessment (PRA) model for Millstone Unit 3, the licensee found that the probability of a medium-to-large break LOCA concurrent with an inoperable accumulator increased from 3.75E-8/yr to 3.00E-7yr. The increase in core melt frequency, however, only increases by 2.63E-7/yr. This increase is negligible (e.g. less than .5%) when compared to the overall core melt frequency due to internally initiated events of 6.34 E-5/yr.

Title 10 CFR 50.92, "Issuance of Amendment," contains standards for addressing the existence of no significant hazards consideration with regard to issuance of license amendments. In this regard, the proposed change to TS 3.5.1 does not involve a significant hazards consideration because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. While the probability of a LOCA with concurrent unavailability of an accumulator does increase, it is still well within acceptable standards especially with regard to its contribution to core melt frequency. Since the unavailability of an accumulator was previously permitted by the TS, no increase in consequences is associated with the proposed change.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The proposed change would not impact the plant response to the point where a new accident is created. The basis for this determination is that an accumulator failure currently has some finite probability and the incremental increase resulting from the proposed change would be insignificantly small. There are no few failure modes associated with this change.

3. Involve a significant reduction in a margin of safety. The change does not impact any of the protective boundaries, nor does it impact the safety limits for the protective boundaries. Therefore, there is no impact on the basis of the Technical Specifications and the proposed change does not involve a significant reduction in a margin of safety.

Accordingly, the staff has made a proposed determination that the proposed change to TS 3.5.1 involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 19, 1990

Description of amendment request: The proposed amendment to the Technical Specifications addresses several administrative changes found on pages 5-1, 5-5, 5-8, and 5-19a. These changes are title changes as a result of a reorganization and also a partial relocation of the Emergency Planning Department. In addition, a title was changed, Supervisor-Radiation Protection, in Amendment 115 but was omitted from page 5-19a. This change is also included.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

This proposed change does not involve significant hazards consideration because operation of Fort Calhoun Station in accordance with this change would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. This change contains only administrative corrections. This change will change titles and would not effect previously evaluated accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated. This change contains only administrative corrections. No new or different modes of operation are proposed for the plant.

3. Involve a significant reduction in the margin of safety. This change contains only administrative corrections and, as such, does not result in a decrease in the margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment 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, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld Country, Colorado

Date of amendment request: November 21, 1989 as supplemented April 25, 1990

Description of amendment request: This amendment request addressed permanent shutdown of Fort St. Vrain (FSV). It would prohibit operation of the FSV reactor.

Basis for proposed no significant hazards consideration determination: The Public Service Company of Colorado (PSC) has submitted a no significant hazards consideration analysis in accordance with the requirements of 10 CFR 50.91 and 50.92. PSC's analysis of significant hazards considerations follows:

This proposed amendment to the Facility Operating License prohibits operation of the FSV reactor at any power level. PSC has no intention of taking the FSV reactor critical again. Existing analyses address potential accident scenarios from a reactor shutdown condition through power operation. Maintaining the core subcritical results in an increase in margins of safety from an accident analysis standpoint. No new accidents or failure modes are created by maintaining the reactor subcritical.

This amendment proposal involves no significant hazards because operation of Fort St. Vrain in accordance with this amendment proposal 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.

On June 29, 1989 as supplemented June 30, 1989, December 1, 1989, February 15, 1990, and March 19, 1990, PSC submitted a Decommissioning

Financial Plan and a Preliminary Decommissioning Plan which describes the ultimate disposition of FSV. FSV was permanently shutdown on August 18, 1989 and PSC submitted a proposed defueling plan and associated Technical Specification (TS) changes by letter dated September 14, 1989 as revised by letter dated October 13, 1989. Defueling was approved by Amendment No. 74 dated December 1, 1989 and one third of the spent fuel in the core has been transferred to the FSV spent fuel storage wells, filling the wells to the maximum capacity. PSC plans to ship all of the spent fuel to a Department of Energy (DOE) facility and has a commitment from DOE in this regard. Until the DOE is prepared to receive the fuel, PSC plans to store the fuel at the FSV site. The proposed decommissioning of FSV will be separately noticed in the **Federal Register.**

Staffing may be reduced from that required for power operations but a sufficient number of licensed operators, Technical Advisors, Equipment Operators and Shift Supervisors shall be retained at the level required for permanent cold shutdown status in accordance with TS requirements. If a reduction in these staffing levels is proposed, an additional notice of the proposed TS amendment will be published in the **Federal Register.** Appropriate staffing is also provided in the licensees Fire Protection Program Plan and Physical Security Plan.

This proposed amendment is more restrictive in that it deletes authority to operate the reactor. It is effectively the same as an amendment to possession-only status.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: April 12, 1990 as supplemented April 20, 1990

Description of amendment request: The proposed amendment would modify the Technical Specifications of the Yankee Nuclear Power Station to: (1) establish a new position, entitled Maintenance Support Supervisor, who reports to the Maintenance Manager and will become a member of the Plant Operation Review Committee. His qualifications are commensurate with those of the Instrumentation and Controls and Maintenance Supervisors. Reporting to the Maintenance Support Supervisor, a new maintenance support organization consolidates engineering disciplines for improved direction and control of preventive and predictive maintenance programs, as well as, design modification activities, (2) establish another new position, entitled Operations Support Supervisor who reports to the Plant Operations Manager and will become a member of the Plant Operation Review Committee. Reporting to the Operations Support Supervisor, a new operations support organization consolidates efforts for enhanced modification and implementation of operations procedures, (3) change the title of Technical Services Supervisor to Technical Services Manager, (4) change the number of SROs on shift from one to two in compliance with TMI requirements; and (5) change the shift duration to 12 hours for some operating personnel which still result, on the average, in an approximate 40-hour workweek.

Basis for proposed no signficant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis:

The changes described will provide for realignment of management resources for improved supervisory control of plant activities, incorporation of a previously NRC-approved minimum shift crew complement and elimination of the eight-hour shift requirement for operating personnel. As such these changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The administrative nature of the staffing changes at YNPS, incorporation of a commitment, and the elimination of the eight-hour shift duration will not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different accident from any previously evaluated. The changes described in this proposed change do not modify any plant systems or components, and will not create the possibility of a new or different accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. This proposed change contains staffing changes that are consistent with existing personnel qualification standards, incorporation of a previously NRC-approved minimum shift complement, and elimination of the eight-hour shift requirement while retaining the existing guidelines on overtime will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's no significant hazards analysis. Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

NRC Project Director: Richard H. Wessman

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: April 20, 1990

Description of amendment request: The proposed amendment would incorporate the NRC guidance contained in Generic Letter 88-17 into the YNPS Technical Specifications (TS). Three new TSs are added which specify the plant conditions and equipment operability requirements to prevent core uncovery if shutdown cooling is lost during reduced level operation. The proposed change also addresses Low Temperature Overpressurization (LTOP), allowing operable SI pumps during reduced level operation only after the Main Coolant System (MCS) has been adequately vented.

Basis for Proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed

amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident previously evaluated; (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis:

The proposed change is requested in order to incorporate into YNPS's Technical Specifications guidance contained in USNRC Generic Letter 88-17. As such, this proposed change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The addition of Specifications to address reduced level operation enhances Yankee's capabilities by requiring that additional equipment be operational to prevent core uncovery during this mode of operation.

(2) Create the possibility of a new or different kind of accident from any previously evaluated. The addition of Specifications to address reduced level operation does not alter plant systems, components, or structures.

(3) Involve a significant reduction in a margin of safety. The addition of Specifications to address reduced level operation enhance safety by increasing Yankee's ability to prevent core uncovery during this mode of operation.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's no significant hazards analysis. Based upon the above discussion, the staff proposed to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

NRC Project Director: Richard H. Wessman

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consumers Power Company, Docket No. 50-255, Palisades, Van Buren County, Michigan

Date of amendment request: March 6, 1990

Brief Description of amendment: The proposed license amendment would revise the requirement of Technical Specification (TS) 4.14.1 by extending the due date for the periodic steam generator inspections which otherwise would be due not later than July 4, 1990.

Date of publication of individual notice in **Federal Register:** April 16, 1990 (55 FR 14147)

Expiration date of individual notice: May 16, 1990

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423

Consumers Power Company, Docket No. 50-255, Palisades, Van Buren County, Michigan

Date of amendment request: April 11, 1990

Brief Description of amendment: The proposed license amendment would revise the requirement of Technical Specification (TS) 3.3.1.b by relaxing, for a limited time, the boron concentration requirement for Safety Injection (SI) Tank T-82A. Additionally, a temporary surveillance requirement would be added to Table 4.2.1, Item 5.

Date of publication of individual notice in **Federal Register:** April 23, 1990 (55 FR 15306)

Expiration date of individual notice: May 23, 1990

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

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 amendment request: April 23, 1990

Brief description of amendments: The proposed amendments would revise Technical Specification (TS) 3/4.9.11 "Fuel Handling Ventilation Exhaust System" and its associated bases. The revision would change the carbon adsorber test method to ensure that the fuel pool ventilation filters have a decontamination efficiency of greater than or equal to 95% under all postulated operating conditions. The laboratory test of carbon samples would be conservatively tested at 95% relative humidity, instead of 70% which is currently required. Changing the allowable penetration for the carbon beds to 0.71% instead of 1% would improve the safety factor of the fuel pool ventilation system.

Date of publication of individual notice in **Federal Register:** May 1, 1990 (55 FR 18198)

Expiration date of individual notice: May 31, 1990

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of amendment request: April 12, 1990

Brief description of amendment request: The proposed Technical Specification change would allow a one time extension of about seven months for the performance of required visual inspections of inaccessible snubbers.

Date of publication of individual notice in **Federal Register:** April 24, 1990 (55 FR 17328)

Expiration date of individual notice: May 24, 1990

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.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: April 4, 1990 and supplements dated April 12, 1990 and April 20, 1990

Brief description of amendment request: The amendment would increase the allowable closure time of the main steam isolation valve from 5 seconds to 8 seconds for one fuel cycle.

Date of publication of individual notice in **Federal Register:** April 26, 1990 (55 FR 17683)

Expiration date of individual notice: May 29, 1990

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

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, DC, 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.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of applications for amendment: December 15, 1989

Brief description of amendment: The amendment modified Surveillance Requirements 4.9.8.1 of the Arkansas Nuclear One, Unit 2 Technical Specifications to reflects a reduction in the minimum Shutdown Cooling loop flow from 3000 gpm to 2000 gpm.

Date of issuance: April 30, 1990

Effective date: April 30, 1990

Amendment No.: 104

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8217) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

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: August 30, 1989 and January 12, 1990

Brief description of amendments: These amendments provide surveillance requirements for the laboratory and in-place testing of the charcoal adsorbers and high efficiency particulate absorber (HEPA) filters included in the following systems: (1) containment iodine removal system, (2) penetration room exhaust air filtration system, (3) control room emergency ventilation system, (4) emergency core cooling system (ECCS) pump room exhaust air filtration system, and (5) spent fuel pool ventilation system. The amendments also clarify the present requirement to verify that the control rooms emergency ventilation system isolation valves close on a high radiation test signal.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment Nos.: 142, 125

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8218) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: February 16, 1990

Description of amendments: The amendments revise TS 4.0.2, Surveillance Requirements by removing the 3.25 limit on extending surveillance intervals.

Date of issuance: April 23, 1990

Effective date: April 23, 1990

Amendment Nos.: 141 and 173

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8220) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: February 13, 1990

Brief description of amendment: The amendment changes the Technical Specifications (TS) to incorporate provisions for the reactor vessel level instrumentation system and core exit thermocouple.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment No. 126

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8220) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: September 9, 1988

Brief description of amendments: These amendments revise the LaSalle County Station, Units 1 and 2 Technical Specifications by changing Section 3/4.7.9 to allow the subsequent visual inspection period for zero inoperable snubbers of each type on any system per inspection period to be 18 months (-50% +25%).

Date of issuance: April 24, 1990

Effective date: April 24, 1990

Amendment Nos.: 73 and 57

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53089) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 24, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 27, 1990

Brief description of amendment: The amendment revises the Technical Specifications to remove a restriction that limits the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval.

Date of issuance: April 30, 1990

Effective date: April 30, 1990

Amendment No.: 151

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6103) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: September 12, 1989, as supplemented by letters dated September 22 and 25, 1989, and March 2, 1990.

Brief description of amendment: This amendment revises the Appendix A TS relating to the Primary Coolant System (PCS) operable components, PCS heatup and cooldown rates, PCS pressure/temperature limits, PCS overpressure protection system setpoints and operating requirements, Emergency Core Cooling System operability requirements, and certain related surveillance requirements. The proposed changes would modify TS Sections 3.1.2, 3.1.8, 3.3.1, 3.3.2, 4.1.1, and 4.6.1, and Figures 3-1, 3-2, 3-3, and 3-4.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 131

Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46144). The March 2, 1990, letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the **Federal Register.** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Duke Power Company, Dockets 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: August 31, 1989, as supplemented January 24, 1990

Brief description of amendments: The amendments revise the Technical Specifications to include additional or more stringent operability requirements for various auxiliary electrical systems. In addition, a number of administrative and editorial changes are included.

Date of issuance: April 25, 1990

Effective date: April 25, 1990

Amendments Nos.: 182, 182, 179

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8223) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 1990.

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, Dockets 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: August 14, 1987, as supplemented April 22, 1988, and January 23, 1990.

Brief description of amendments: The amendments revise Technical Specification (TS) 3.4.4 to raise the minimum upper surge tank (UST) level from 5 feet to 6 feet. The level setpoint of 6 feet includes an allowance for instrument error. The amendments also revise the basis to TS 3.4.

Date of issuance: April 25, 1990

Effective date: April 25, 1990

Amendments Nos.: 183, 183, 180

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31105) Subsequent to the Commission's initial notice, the licensee submitted supplemental information which clarified the application. It did not change the intitial determination of no significant hazards consideration and thus did not warrant renoticing. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: December 14, 1989

Brief description of amendments: The amendments revise the Technical Specifications of each unit by replacing the cycle-specific parameter limits with reference to the Core Operating Limits Report, which contains the values of those limits. These amendments reflect the guidance provided by NRC Generic Letter 88-16.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment Nos.: 154 for Unit 1, 31 for Unit 2

Facility Operating License Nos. DPR-66 and NPF-73. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4268) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

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: October 31, 1989

Brief description of amendment: This amendment revises TS 4.0.2 by removing the provision (formerly in 4.0.2.b) that limited the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval.

Date of issuance: April 25, 1990

Effective date: April 25, 1990

Amendment No.: 128

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4269) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: February 23, 1990

Brief description of amendment: The amendment modifies the Oyster Creek Nuclear Generating Station Technical Specifications to remove the 3.25 limit on extending surveillance intervals and to add the bases for the existing allowance, in accordance with the guidance contained in NRC Generic Letter 89-14, dated August 21, 1989.

Date of Issuance: April 23, 1990

Effective date: April 23, 1990

Amendment No.: 138

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10533) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 23, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

GPU Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2, (TMI-2), Dauphin County, Pennsylvania

Date of application for amendment: November 23, 1988

Brief description of amendment: The amendment modified Appendix A Technical Specifications allowing the consolidation of the TMI-1 and TMI-2 Radiological Controls Departments into a site organization.

Date of Issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 38

Facility Operating License No. DPR-73. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4270). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of application for amendment: January 15, 1990

Brief description of amendment: The amendment revises Technical Specification Tables 3.2-9 and 4.2-9.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment No: 169

Facility Operating License No. DPR-57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8225) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: June 10, 1988

Brief description of amendment: The amendment revised the expiration date for Facility operating License No. DPR-49 for the Duane Arnold Energy Center from June 21, 2010 to February 21, 2014.

Date of issuance: April 23, 1990

Effective date: April 23, 1990

Amendment No.: 164

Facility Operating License No. DPR-49. Amendment revised the License.

Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32712) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1990 and an Environmental Assessment dated April 13, 1990 (55 FR 15046).

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.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: June 30, 1987, as revised September 1, 1989

Brief description of amendment: The amendment revised the Duane Arnold Energy Center Technical Specifications (TSs) to conform with model TSs relating to control room habitability recommended in NRC Generic Letter 83-36. The revisions include changes in nomenclature for consistency with current surveillance procedures, clarification of existing surveillance requirements, and the addition of a requirement to demonstrate that the control room can be automatically isolated and maintained at a positive pressure upon receipt of a high radiation signal.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 165

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 27, 1989 (54 FR 53208) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

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.

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Unit 1, Suffolk County, New York

Date of application for amendment: July 15, 1988

Brief description of amendment: This amendment revised Technical Specifications 3/4.8.1, A.C. Sources, to adopt staff recommended changes to improve and monitor diesel generator reliability (Generic Letter 84-15).

Date of issuance: April 20, 1990

Effective date: April 20, 1990

Amendment No. 3

Facility Operating License No. NPF-82. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 30, 1988 (53 FR 53094) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 20, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9697.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: December 8, 1989

Brief description of amendment: This amendment revises Technical Specification Appendix A, Section 3.3.1 and associated Bases so that oxygen concentration in the primary containment atmosphere is expressed in percent by volume rather than percent by weight. It also deletes a reference to the initial startup test program.

Date of issuance: April 25, 1990

Effective date: April 25, 1990

Amendment No.: 115

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: March 21, 1990 (55 FR 10541) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: December 18, 1989

Brief description of amendment: The amendment revises Section 6.0 "Administrative Controls" of the facility Technical Specifications to permit the Shift Technical Advisor (STA) function to be performed by one of the two on-shift Senior Reactor Operators (SROs). This eliminates the requirement for a dedicated STA to be on-site when one of the shift SROs is qualified as an STA.

Date of issuance: May 1, 1990

Effective date: May 1, 1990

Amendment No.: 73

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 24, 1990 (55 FR 2438) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 24, 1990 as supplemented March 29, 1990

Brief description of amendment: The amendment removed the provision of Specification 3.0.1 that limits the combined time interval for any three consecutive surveillances to less than 3.25 times the specified interval.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment No.: 129

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 7, 1990 (55 FR 8231) The March 29, 1990, submittal provided additional clarifying information and did not change the staff's original finding of no significant hazards consideration or alter the action needed. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: December 20, 1989 as supplemented March 21, 1990.

Brief description of amendment: The amendment modified Technical Specification 2.12, Control Room Systems, which applied to control room air conditioning and filtering systems. The amendment conservatively lowered the maximum limit for control room air temperature (from 120° F to 105° F) upon which the licensee is required to take action. This change was necessary in order to more accurately direct the application of the technical specification to the equipment it was originally intended to address.

Date of issuance: May 2, 1990

Effective date: May 2, 1990

Amendment No.: 130

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 7, 1990 (55 FR 8229) The March 21, 1990 submittal provided additional clarifying information and did not change the staff's original finding of no significant hazards consideration or alter the action needed. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: July 15 and December 1, 1989, and April 10, 1990 (Reference LAR 89-08).

Brief description of amendments: The amendments revised the Technical Specifications to allow reduction of the boric acid concentration in the boric acid tank from twelve to four weight percent.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendments Nos.: 53 and 52

Facilities Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.

Date of initial notice in Federal Register: August 9, 1989 (54 FR 32713) The Commission's related evaluation of

the amendments is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: December 29, 1989

Brief description of amendment: This amendment changed the Technical Specifications to specify the revised time period for which the reactor pressure vessel pressure-temperature operating limit curves are valid.

Date of issuance: April 20, 1990

Effective date: April 20, 1990

Amendment No. 36

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4274) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 20, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 12, 1990

Brief description of amendment: The amendment replaces the existing Reactor Vessel Pressure-Temperature Limit curves with new curves for operation to 12, 14 and 16 effective full power years and revises the corresponding Limiting Condition for Operation and Bases section to reflect the new pressure-temperature limits.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 158

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8233) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 12, 1990

Brief description of amendment: This amendment allows the main steamline high radiation monitor trip level setpoints to be increased during Operating Cycle 10 to facilitate a testing program which will periodically add hydrogen to the reactor coolant to determine its effectiveness as an inhibitor of intergranular stress corrosion cracking.

Date of issuance: April 30, 1990

Effective date: April 30, 1990

Amendment No.: 159

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8235) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

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: December 2, 1988

Brief description of amendment: The amendment revises the Technical Specifications to modify the applicability of action requirements for Limiting Conditions for Operation (LCO) associated with missed Surveillance Requirements. Time limits of LCO action requirements will be applied at the time a missed surveillance is identified.

Date of issuance: April 17, 1990

Effective date: April 17, 1990

Amendment No.: 96

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6204) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1990.

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: February 12, 1990

Brief description of amendment: The amendment revises the Technical Specifications to remove the statement which limits the allowable extension for three consecutive surveillance intervals to 3.25 times the specified surveillance interval. The change also removes the statement which excludes shift and daily surveillances from the 25-percent allowance to extend surveillance intervals.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 97

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10544) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 5, 1990 and the supplemental letter dated April 9, 1990 (TS 89-36).

Brief description of amendments: The amendments modify Section 3/4.2.4, Quadrant Power Tilt Ratio, and Table 3.3-1, Reactor Trip System Instrumentation, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The changes revise the action statements in Table 3.3-1 for quadrant power tilt ratio monitoring when power range instrumentation is inoperable to provide a consistent set of actions to be taken when the quadrant power tilt ratio is not monitored or confirmed in accordance with either Surveillance Requirement (SR) 4.2.4.1 or 4.2.4.2. This adds two action statements to TS 3/4.2.4. There is also a change to SR 4.2.4.2 to allow a full core map using the incore detector system, instead of only the currently required four pairs of symmetric thimble locations, to confirm the normalized

symmetric power distribution in the core.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment Nos.: 135, 122

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 1, 1989 (54 FR 46158). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50-327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendment: January 12, 1990 which superceded the application dated December 2, 1988 (TS 88-42).

Brief description of amendment: The amendment modifies the Sequoyah Nuclear Plant, Unit 1, Technical Specifications. The changes revise the trip setpoint and allowable value units for the intermediate range (IR) nuclear flux detector and revise the applicability requirements for the source range (SR) nuclear flux detector. The proposed changes for Sequoyah Unit 2 in the application will be acted on during the Unit 2 Cycle 4 refueling outage after the IR/SR equipment is replaced in the outage. This application revised TVA's submittal dated December 2, 1988, which was noticed in the Federal Register on December 30, 1988 (53 FR 53100).

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment No.: 136

Facility Operating License No. DPR-77 Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 7, 1990 (55 FR 4278). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 5, 1990 (TS 90-08)

Brief description of amendments: The amendments modify Section 3/4.8, Electric Power Systems, of the Sequoyah Nuclear Plant Technical Specification (TSs) to allow the cleaning of the emergency diesel generator (DG) fuel-oil storage tanks. The changes add a footnote to the 72-hour operability requirements in Action Statement "a" of Limiting Condition for Operation 3.8.1.1. The footnote states that the 72-hour requirement to return the alternating circuit power sources to operable status before an operating unit must begin shutting down may be extended to 144 hours for performing Surveillance Requirement (SR) 4.8.1.1.2.f.1. This SR is the TS requirement for cleaning the DG fuel storage tanks.

These amendments are being issued without the 30-day public comment period specified in 10 CFR 50.91(a). As requested by the licensee, the staff concluded that exigent circumstances existed because of the importance of the DGs to plant safety and the potential deterioration of the fuel oil from the tanks.

Date of issuance: April 27, 1990

Effective date: April 27, 1990

Amendment Nos.: 137, 123

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 12, 1990 (55 FR 13868) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

The Cleveland Electric Illuminating 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: February 9, 1988

Brief description of amendment: The amendment modifies Table 4.8.1.1.2-1 of the Technical Specifications (TS) related to testing frequency of the emergency diesel generators. The criteria of seven consecutive failure-free demands *and* reducing the number of failures in the last 20 valid demands to less than or equal to one for returning to the normal monthly test frequency applies no matter which of the criterion (greater than or equal to 2 failures in the last 20 tests or greater than *or* equal to 5 failures in the last 100 tests) caused entry into the increased testing frequency.

Date of issuance: April 30, 1990

Effective date: April 30, 1990

Amendment No. 27

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 6, 1988 (53 FR 11377) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

The Cleveland Electric Illuminating 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: March 16, 1990

Brief description of amendment: The amendment revised the Reactor Core Isolation Cooling (RCIC) Equipment Room Differential Temperature Isolation Actuation Instrumentation Trip Setpoint and Allowable Value in Table 3.3.2-2 of the Technical Specifications. The new setpoint would be in effect for year-round operation. The current setpoint is only in effect until Lake Erie temperature reaches 55° F.

Date of issuance: May 4, 1990

Effective date: May 4, 1990

Amendment No. 28

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 4, 1990 (55 FR 12602). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 14, 1989

Brief description of amendment: The amendment revised technical specifications section 3/4.7.1.2 to add clarification to Surveillance Requirements 4.7.1.2.1.a(4) and 4.7.1.2.1.b(1) by identifying automatic valves that are either excluded or

included in the flow path of the Auxiliary Feedwater System whose position has to be verified to demonstrate operability.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 53

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 24, 1990 (55 FR 2449) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

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.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: March 2, 1990

Brief description of amendment: The amendment revises the Technical Specifications (TS) and their related Bases. Specifically it removes the organization charts from the administrative control requirements of the TS.

Date of issuance: April 25, 1990

Effective date: April 25, 1990

Amendment No. 121

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10546). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, Docket No. 50-280, Surry Power Station, Unit No. 1, Surry County, Virginia.

Date of application for amendment: January 8, 1990

Brief description of amendment: The amendment postpones the requirement to cycle and verify open each weight-loaded check valve in the Containment and Recirculation Spray Systems until the next refueling outage. One issue remains under review from the licensee's application.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No. 140

Facility Operating License No. DPR-32: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6124) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

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 29, 1989

Brief description of amendments: These amendments delineate the surveillance requirements for the emergency diesel generator load sequencing modification completed in 1989.

Date of issuance: May 1, 1990

Effective date: May 1, 1990

Amendment Nos. 141 and 139

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 May 1, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: November 29, 1989 as supplemented by letter dated March 21, 1990.

Brief description of amendment: This amendment revises Technical Specification 3/4.3.6, "Control Rod Block Instrumentation," by modifying the requirement for performance of the channel functional test for two trip functions during certain conditions. When WNP-2 is in mode 5, the channel functional test for the source range and intermediate range monitor not full in trip functions may be satisfied by administratively controlling the positions of the detectors and by verifying those positions visually. The bases section for the technical specification is amended to include the circumstances for utilizing the alternative for the channel functional test.

Date of issuance: April 20, 1990

Effective date: April 20, 1990

Amendment No.: 81

Facility Operating License No. NPF-21: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4287) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 20, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: October 27, 1989

Brief description of amendment: This amendment revises Surveillance Requirement 4.0.2 by deleting the general requirement that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval. The corresponding bases section is revised to set forth the basis for ensuring that surveillances are performed in a timely manner.

Date of issuance: April 26, 1990

Effective date: April 26, 1990

Amendment No.: 82

Facility Operating License No. NPF-21: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** December 27, 1989 (54 FR 52314) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

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 for the amendment 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility 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.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 15, 1990, 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 petition for leave to intervene. Requests for a hearing and petitions 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. 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. 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.

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 amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendment: April 30, 1990

Brief description of amendment: The Amendment revises surveillance requirement 4.4.1.4.2 of TS 3/4.4.1.4, "Reactor Coolant System-Cold Shutdown" by decreasing the required shutdown cooling flowrate from 4000 gpm to 2000 gpm on a one-time basis until initial entry into Mode 2 for Cycle 3.

Date of issuance: May 4, 1990

Effective date: May 4, 1990

Amendment No.: 48

Facility Operating License No. NPF-41: Amendment revised the Technical Specifications.

Public comment requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Arizona, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 4, 1990.

Attorneys for licensee: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of Application for amendment: January 4, 1990

Brief description of amendment: The amendment changed the Technical Specifications to allow Unit 2 to complete the fourth fuel cycle with maximum charging pump flow exceeding the technical specifications limit of 550 gpm by less the 1%.

Date of Issuance: April 20, 1990

Effective Date: April 20, 1990

Amendment No.: 36

Facility Operating License No. DPR-75: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, consultation with the State of New Jersey and final no significant hazards consideration determination are contained in a Safety Evaluation dated April 20, 1990.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, Washington, DC 20006

Local Public Document Room Location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

NRC Project Director: Walter R. Butler

Dated at Rockville, Maryland, this 9th day of May 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-11255 Filed 5-15-90; 8:45 am]

BILLING CODE 7590-01-D

Chemical Toxicity of Uranium Hexafluoride Related to Radiation Doses; Availability

The Nuclear Regulatory Commission has published "Chemical Toxicity of Uranium Hexafluoride Related to Radiation Doses" (NUREG-1391) as a draft for public comment. The purpose of the report is to compare the early chemical effects from large acute exposures to uranium hexafluoride with the effects from acute radiation doses of 25 rems to the whole body and of 300 rems to the thyroid. Comments are due by July 15, 1990.

A free single copy of draft NUREG-1391 may be requested by those considering public comment by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Dated at Rockville, Maryland, this 9th day of May, 1990.

For the Nuclear Regulatory Commission.

Frank A. Costanzi,

Deputy Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 90-11373 Filed 5-15-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-62]

Technical Amendment to the Determination To Impose Increased Duties on Certain Products of the European Community

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of technical amendment to the Harmonized Tariff Schedule of the United States.

SUMMARY: Effective December 8, 1989, the United States Trade Representative suspended the application of the increased duty on imports of certain tomato sauces from the European Community (54 FR 50673), and modified the Harmonized Tariff Schedule of the United States (HTS) striking out subheading 9903.23.15 and by inserting in lieu thereof two new subheadings. However, the application of the increased duty was not suspended for certain articles for which a suspension was intended. This notice corrects that error.

EFFECTIVE DATE: May 16, 1990.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Lorraine Takahashi, (202) 395-3077, or Bennett Harman, (202) 395-3074.

SUPPLEMENTARY INFORMATION: On December 29, 1988, pursuant to authority delegated by the President of the United States Trade Representative (USTR) in Proclamation No. 5759 of December 24, 1987, the USTR partially terminated the suspension of the application of increased duties on imports of certain products of the European Community proclaimed in Proclamation No. 5759 and modified the list of affected products (53 FR 53115). On July 28, 1989, the USTR modified the list of affected products to exclude pork hams and shoulders (54 FR 31398); and effective December 8, 1989, the USTR further modified the list by suspending the application of the increased duty on imports of tomato sauces provided for in HTS subheading 2103.20.40 (54 FR 50673).

This notice further modifies the list of affected products, to clarify that goods classified in HTS subheading 2002.90.00 are not subject to the increased duties being applied pursuant to Proclamation No. 5759, as modified by the notices of the USTR on December 29, 1988, July 28, 1989 and December 8, 1989.

Modifications

Accordingly, the Harmonized Tariff Schedule of the United States (HTS) is hereby modified by striking out subheading 9903.23.16 and by inserting in lieu thereof the following new subheadings and superior text thereto, with such superior text at the same level of indentation as the article description of subheading 9903.23.20:

Heading/ subheading	Article/description	Rates of duty 1 general (%)	Rates of duty 2
	"Tomatoes, prepared or preserved (except paste) otherwise than by the processes specified in chapter 7 or 11 in heading 2001.		
9903.23.17	Tomatoes, whole or in pieces (provided for in subheading 2002.10.00)	100	No change.
9903.23.18	Other (provided for in subheading 2002.90.00)	100	No change."

The increased rate of duty provided for in HTS subheading 9903.23.18 is hereby suspended, and that subheading shall be shaded in the HTS. The modifications made by this notice are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after May 16, 1990.

Carla A. Hills,

U.S. Trade Representative.

[FR Doc. 90-11384 Filed 5-15-90; 8:45 pm]

BILLING CODE 3190-01-M

[Docket No. 301-65]

Termination of Section 302 Investigation Regarding the Republic of Korea's Restrictions on Imports of Beef

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination of investigation under section 302 of the Trade Act of 1974, as amended.

SUMMARY: The United States Trade Representative (USTR) has terminated an investigation initiated under section 302 of the Trade Act of 1974 as amended (Trade Act) with respect to restrictions maintained by the Republic of Korea on the import of beef, having reached a satisfactory resolution of the issues under investigation.

DATES: This investigation was terminated effective April 26, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, (202) 395-4755, or Lorraine Takahashi, (202) 395-3077, Office of the U.S. USTR, 600 17th Street NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: On February 16, 1988, the American Meat Institute (AMI) filed a petition under section 302(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2412(a), alleging that the Government of the Republic of Korea maintains a restrictive import licensing system covering all bovine meat, including high-quality beef, and noting that on May 21, 1985, the Korean Government had banned the importation of beef. AMI maintained that this prohibition violates Article XI of the General Agreement on Tariffs and Trade (GATT), nullifies and impairs tariff concessions on beef made by Korea under the GATT, and is otherwise unjustifiable and unreasonable and burdens or restricts U.S. commerce.

On March 28, 1988, the USTR initiated an investigation of these practices (53 FR 16995). On May 4, 1988, the GATT Council of Representatives ("GATT Council") authorized establishment of a dispute settlement panel, Under GATT Article XXIII:2, to examine the United States complaint regarding Korea's import restrictions on beef.

On May 24, 1989, the GATT dispute settlement panel issued a report concluding that Korea's import restrictions on beef are contrary to the provisions of GATT Article XI:1, and not justified for balance-of-payments purposes in light of the improvement of the Korean balance-of-payments situation. The panel recommended prompt establishment of a timetable for phasing out Korea's restrictions on beef.

Pursuant to 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the USTR was required to determine whether Korea's import restrictions deny "rights to which the

United States is entitled" under the GATT and whether such practices are unjustifiable or unreasonable and burden or restrict U.S. commerce. The deadline for this determination was September 28, 1989, which was 18 months after the date of initiation of this investigation.

On the basis of the GATT panel report on this matter, the USTR determined on September 28, 1989, that rights to which the United States is entitled under a trade agreement (the GATT) are denied by Korea's restrictions on imports of beef. Section 301(a)(1) of the Trade Act provides that if the USTR makes such a determination, the USTR shall take action authorized under section 301(c) subject to the specific direction, if any, of the President.

The USTR determined that the appropriate action to take under section 301(c) was to suspend the application of GATT tariff concessions with respect to Korea, affecting products of Korea in an amount that is equivalent in value to the burden or restriction on United States commerce. However, the USTR decided that it was desirable to delay implementation of action under section 301 in this case, to allow additional time for proceedings in the GATT. At that time, Korea had not yet agreed to join a consensus by the GATT Council of Representatives to adopt the GATT panel report.

On November 8, 1989, the panel report was adopted and Korea commenced consultations with the United States on plans for implementing the panel's recommendations. On March 21, 1990, a trade agreement was initialled between the United States and the Republic of Korea, and on April 26 and 27, 1990, the Republic of Korea and the United States exchanged letters formalizing the agreement. The agreement includes the following key elements:

(1) A commitment that Korea will liberalize fully its beef market, consistent with its balance-of-payments liberalization commitment undertaken last fall in the GATT, to liberalize imports of certain products or otherwise bring them into conformity with the GATT no later than July 1997.

(2) Three years of transitional import quota levels which provide growth over the 1989 quota and actual trade. Levels of these quotas (customs clearance basis) are: 1990—58,000 metric tons; 1991—62,000 metric tons; and 1992—66,000 metric tons. Bilateral consultations will be held on the import regime between 1992 and full liberalization in 1997. It has been agreed that the remaining transitional regime will be designed to increase imports further.

(3) A system to provide for expanding direct access between buyers and sellers in the Korean market will be established by October 1, 1990. This system is designed to allow the development of relationships with Korean purveyors that will assist U.S. exporters in developing name recognition and in selling their high quality products.

(4) An industry-to-industry dialogue that will continue to resolve issues relating to the elimination of bid and performance bonds and other issues, and allow multiple puts on a single tender bid position and the elimination of packaging specifications.

In light of the above, the USTR has determined pursuant to section 304(a)(1)(B) that the appropriate action at this time is to terminate the investigation of this matter initiated under section 302(a) of the Trade Act, and, in accordance with section 306(a) of the Trade Act, to monitor implementation by Korea of the commitments made in the April 26–27 exchange of letters. If, on the basis of the monitoring carried out under section 306(a), the Trade Representative considers that Korea has not satisfactorily implemented its commitments, in accordance with section 306(b) the Trade Representative shall determine what further action to take under section 301.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90–11383 Filed 5–15–90; 8:45 am]

BILLING CODE 3190–01–M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Annual Meeting of Commissioners

AGENCY: President's Commission on White House Fellowships.

ACTION: Notice of Annual Selection Meeting of the President's Commission on White House Fellowships; closed to the public.

SUMMARY: Notice is hereby given that the annual Selection Meeting of the President's Commission on White House Fellowships will be held at Mt. Washington Conference Center, Baltimore, Maryland, May 31 through June 3, 1990, beginning at 5 p.m.

The Annual Selection Meeting is part of the screening process of the White House Fellowships program. During this three-day meeting, the applicants will be interviewed by members of the Presidential Commission. At the conclusion of this meeting, the Commissioners will recommend to the President those they propose be selected to seve as White House Fellowships.

It has been determined by the Director of the Office of Personnel Management that because of the nature of the screening process, wherein personnel records and confidential character references must be used, which, if revealed to the public would constitute a clear invasion of the individual's privacy, the content of this meeting falls within the provisions of section 552b(c) of title 5 of the United States Code. Accordingly, this meeting is closed to the public.

DATES: The dates of the Annual Selection Meeting of the President's Commission on White House Fellowships, which is closed to the public, are May 31–June 3, 1990.

FOR FURTHER INFORMATION CONTACT: Phyllis Byrne, Associate Director, President's Commission on White House Fellowships, 712 Jackson Place NW., Washington, DC 20503, (202) 395–4522.

Dated: March 30, 1990.

Marcy L. Head,

Director, President's Commission on White House Fellowships.

[FR Doc. 90–11306 Filed 5–15–90; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

May 10, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Ashland Coal, Inc.
  Common Stock, No Par Value (File No. 7–5918)
Alliance New Europe Fund, Inc.
  Common Stock, $.01 Par Value (File No. 7–5919)
Dallas Semiconductor Corp.
  Common Stock, $.02 Par Value (File No. 7–5920)
Future Germany Fund, Inc.
  Common Stock, $.001 Par Value (File No. 7–5921)
Geneva Steel
  Class A Common Stock, No Par Value (File No. 7–5922)
Indonesia Fund, Inc.
  Common Stock, $.001 Par Value (File

No. 7-5923)
India Growth Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-5924)
Japan OTC Equity Fund
Common Stock, $.10 Par Value (File No. 7-5925)
Kimmins Environmental Service Corp.
Common Stock, $.001 Par Value (File No. 7-5926)
Landmark Land Co., Inc.
Common Stock, $.50 Par Value (File No. 7-5927)
Merry-Go-Round Enterprises, Inc.
Common Stock, $.01 Par Value (File No. 7-5928)
New Line Cinema Corp.
Common Stock, $.01 Par Value (File No. 7-5929)
Rhone-Poulenc S.A.
American Depositary Share, Common Stock, No Par Value (File No. 7-5930)
Rhone-Poulenc S.A.
Warrants, Common Stock, No Par Value (File No. 7-5931)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 1, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 90-11316 Filed 5-15-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

May 10, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Del Electronics Corp.
Common Stock, $.10 Par Value (File No. 7-5903)
Energy Development Partners, Ltd.
Common Stock, No Par Value (File No. 7-5904)
Europe Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-5905)
Fingerhut Companies, Inc.
Common Stock, $.01 Par Value (File No. 7-5906)
Kelley Oil & Gas Partners, Ltd.
Common Stock, No Par Value (File No. 7-5907)
Pacific-European Growth Fund, Inc.
Common Stock, $.10 Par Value (File No. 7-5908)
Safeway Stores, Inc.
Common Stock, $.01 Par Value (File No. 7-5909)
Safeway Stores, Inc.
Warrants expiring 11/24/96, No Par Value (File No. 7-5910)
Seitel Incorporated
Common Stock, $.01 Par Value (File No. 7-5911)
Veronex Resources, Ltd.
Common Stock, No Par Value (File No. 7-5912)
Vista Resources, Inc.
Common Stock, $2.50 Par Value (File No. 7-5913)
Wahlco Environmental Systems, Inc.
Common Stock, $.01 Par Value (File No. 7-5914)
Georgia Gulf Corporation
Common Stock, $.01 Par Value (File No. 7-5915)
Sun Distributors L.P.
Class A Limited Partnership Interest, Common Stock, $.01 Par Value (File No. 7-5916)
Sun Distributors L.P.
Class B Limited Partnership Interest, Common Stock, $.01 Par Value (File No. 7-5917)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 1, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary

[FR Doc. 90-11319 Filed 5-15-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17480; 811-4454]

Drake Income Shares, Inc.; Notice of Application for Deregistration

May 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Drake Income Shares, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N-8F was filed on December 15, 1989, and was amended on February 26 and May 3, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 4, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, C/O DG Bank, 630 Fifth Avenue, New York, NY 10111.

FOR FURTHER INFORMATION CONTACT: Brion Thompson, Special Counsel, 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 or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Maryland corporation and is registered under the 1940 Act as an open-end, diversified management investment company. On November 4, 1985, Applicant filed a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N-8A. Applicant did not file a registration statement under the Securities Act of 1933. Applicant has never made a public offering of its securities, and has no more than 100 security-holders for purposes of section 3(c)(1) of the 1940 Act and the rules thereunder.

2. At a meeting on October 10, 1989, Applicant's Board of Directors authorized the dissolution of Applicant because shareholders holding 100% of the outstanding common stock of Applicant redeemed their shares.

3. As of November 3, 1988, Applicant had 2,051,919 shares of common stock outstanding, with a net asset value per share of $10.46. Thereafter, on November 4, November 8 and December 20, 1988, Applicant's shares were redeemed.

4. As of the time of filing the application, Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

5. Applicant intends to file the appropriate Certificate of Dissolution or similar document in accordance with Maryland state law after the relief requested has been granted. Applicant is current on its required filings, including its N-SAR filing and will make all final filings required by the 1940 Act.

For the commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-11371 Filed 5-15-90; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC—17482; 812-7468]

Piper Jaffray Investment Trust Inc.; Notice of Application

May 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Piper Jaffray Investment Trust Inc.

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) of the Act from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order granting an exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder. The requested relief would permit applicant to impose a contingent deferred sales charge ("CDSC") on certain redemptions of its shares with respect to which applicant's front-end sales load ("FESL") was initially waived.

FILING DATE: The application was filed on February 1, 1990 and amended on April 23, 1990 and May 4, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 5, 1990, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Piper Jaffray Tower, 222 South Ninth Street, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (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 or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized under the laws of the State of Minnesota. Piper, Jaffray & Hopwood Incorporated (the "Distributor") is a registered broker-dealer under the Securities Exchange Act of 1934 and serves as principal undewriter for applicant.

2. Applicant has one class of capital stock that is currently offered for sale in eleven separate series. Three of such series are offered to the public at their net asset value with no sales charge. The other eight series (collectively, the "Funds") are offered for sale at net asset value plus an FESL on single purchases of less than $100,000. The FESL is reduced on a graduated scale on single purchases of $5 million and over ($3 million in the case of one Fund). The Distributor pays its investment executives and other broker-dealers a fee equal to .15% of the offering price of such purchases, which amount is reimbursable under the Funds' 12b-1 plan.

3. Applicant proposes to offer shares of the Funds for sale at net asset value plus an FESL on transactions involving less than $500,000 (or such other amount as agreed to by the Distributor and applicant from time to time). For purchases of $500,000 or more, applicant will impose no FESL. The Distributor will pay its investment executives and other broker-dealers a fee in connection with such purchases of up to 1.00% of the offering price, which amount will not be reimbursable under applicant's Rule 12b-1 plan. However, applicant proposes to pay to the Distributor a CDSC form the proceeds of certain redemptions of shares initially sold without an FESL. Amounts received by the Distributor under the Rule 12b-1 plan will not be reduced or offset by the CDSC retained by the Distributor.

4. The CDSC would only be imposed in the event of a redemption transaction occurring within a specified period of time (the "holding period") following the share purchase and would be equal to a specified percentage of the lesser of (a) the net asset value of the shares at the time of purchase or (b) the net asset value of the shares at the time of redemption. The holding period for the Funds other than Institutional Government Income Portfolio ("IGIP") would be 18 months, and the CDSC

percentage for such Funds would be 1.00%. The holding period for IGIP would be two years, and the CDSC percentage would be .50%.

5. Applicant represents that no CDSC will be imposed when the investor redeems (a) amounts representing an increase in the value of shares due to capital appreciation; (b) shares purchased through reinvestment of dividends or capital gains distributions; or (c) shares held for more than the required holding period. In determining whether a CDSC is payable, shares, or amounts representing shares, that are not subject to any CDSC will be redeemed first, and other shares or amounts will then be redeemed in the order purchased.

6. Applicant intends to waive the CDSC on purchases made by Piper Jaffray Incorporated, its subsidiaries, outside counsel to applicant, and the following persons associated with such entities: (a) Officers, directors, and partners; (b) employees and retirees; (c) sales representatives; (d) spouses and children under the age of 21 of any such persons; and (e) any trust or pension, profit-sharing, or other benefit plan for any of the persons set forth in (a) through (d). In addition, sales representatives of broker-dealers who have entered into sales agreements with the Distributor, and spouses and children under the age of 21 of such sales representatives, may buy shares of the Funds without incurring a CDSC.

7. Applicant intends to waive all sales charges, including the CDSC, in connection with purchases of Fund shares by certain employee benefit plans provided that the amount invested or to be invested during the subsequent 13-month period pursuant to a letter of intent in one or more series of applicant (including series normally sold without a sales charge) totals are least $2,000,000.

8. Applicant further intends to waive the CDSC on the redemption of shares in the event of (a) the death or disability of the shareholder; (b) a lump sum distribution from a benefit plan qualified under the Employment Retirement Income Security Act of 1974 ("ERISA"); (c) systematic withdrawals from ERISA plans if the shareholder is at least 59½ years old; or (d) involuntary redemptions effected pursuant to the right to liquidate shareholder accounts having an aggregate net asset value of less than the amount required to be maintained in an account pursuant to the then-current prospectus of a Fund.

9. No CDSC will be imposed on the exchange of shares among different series of applicant or with any future series or fund offered by applicant. When shares of one fund have been exchanged for shares of another fund, the date of the purchase of the shares of the fund exchanged into, for purposes of any future deferred sales charge, will be assumed to be the date on which the shares tendered for exchange were originally purchased. If the shares being tendered for exchange have been held for less than the holding period and are still subject to a CDSC, such charge will carryover to the shares being acquired in the exchange transaction. Any exchange offer made by applicant will comply with Rule 11a-3 under the Act.

10. Applicant requests that the relief extend to all of its future series offered at net asset value plus a sales charge and any open-end registered investment comply which may hereafter be advised by Piper Capital Management Incorporated and which is in the same group of investment companies, as defined in Rule 11a-3 under the Act.

Applicant's Condition

If the requested exemptive relief is granted, applicant agrees that it will comply with the provisions of proposed Rule 6c-10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), 53 FR 45,275 (1988), as currently stated and as it may be adopted and modified in the future.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-11372 Filed 5-15-90; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council; Public Meeting

The Executive Committee of the U.S. Small Business Administration's Region V Advisory Council, located in the geographical area of Rosemont, will hold a public meeting June 15, 1990 at the O'Hare Ramada Hotel, Rosemont, Illinois, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call Roy Olson, Assistant Regional Administrator for Public Affairs, U.S. Small Business Administration, 230 South Dearborn Street, room 510, Chicago, IL 60604, 312/353-0359.

Dated: May 9, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-11350 Filed 5-15-90; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting from 10 a.m. to 3 p.m., on Wednesday, June 13, 1990, at 911 Walnut, Kansas City, Missouri, in room 2506, to discuss such matters as may be presented by members and the staff of the U.S. Small Business Administration, or others present.

For further information, write or call Dan Loar, Special Assistant to the Regional Administrator, U.S. Small Business Administration, 911 Walnut, Kansas City, MO 64106, 816/426-6145.

Dated: May 9, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-11349 Filed 5-15-90; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, will hold a public meeting at 8:30 a.m. on Thursday, May 24, 1990, in room 451 of the Federal Building, 657 Second Avenue North, Fargo, North Dakota, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call James L. Stai, District Director, U.S. Small Business Administration, 657 Second Avenue North, Fargo, North Dakota 58102, 701/239-5131.

Dated: May 10, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-11351 Filed 5-15-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Secretary of State's Advisory Committee on Private International Law; First Meeting of Study Group on Intercountry Adoption

The Department of State announces that the first meeting of the Study Group on Intercountry Adoption of the Secretary of State's Advisory Committee on Private International Law will take place on Tuesday, June 5, 1990 from 9:30 a.m. to 4:30 p.m. in the conference room in Suite 1331, Department of State,

Washington, DC (entrance to building: 22nd & C Streets, NW.)

The meeting will review the study and report prepared by the Permanent Bureau of the Hague Conference on Private International Law for the first session of the Conference's special commission on intercountry adoption that is to take place at The Hague, Netherlands, on June 11–21, 1990. The review by the study group is to provide guidance for the U.S. delegation to the special commission session which will begin international negotiations on the Hague Conference's project to develop by 1993 a convention (multilateral treaty) on international cooperation in the intercountry adoption of children.

Copies of the Hague Conference Permanent Bureau's study and report and other materials relevant to this project may be obtained by contacting Peter H. Pfund at (202) 653–9851 or by writing him at the Office of the Legal Adviser, L/PIL, 2100 K Street, NW., Suite 402, Washington, DC. 20037–7180.

As access to the State Department building is controlled, Ms. Rosalia Gonzales of the office indicated above should be notified not later than Friday, June 1 ((202) 653–9852) of the name, affiliation, address and phone number of persons wishing to attend. Members of the public will be able to attend the meeting up to the capacity of the meeting room. Persons interested but unable to attend the meeting are welcome to submit written comments or proposals to the address indicated above.

Dated: May 8, 1990.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 90–11344 Filed 5–15–90; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 90–031]

Loran-C Mid-Continent Expansion Project Transmitter Station Antenna Positions

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice.

SUMMARY: This notice publishes the transmitter antenna position survey data for the Loran-C Mid-Continent Expansion Project.

FOR FURTHER INFORMATION CONTACT: LTJG Roger Barnett, U.S. Coast Guard Headquarters, Radio-Aids Applications and Developments Branch at telephone (202) 267–0299, (FTS) 267-0299.

SUPPLEMENTARY INFORMATION: The Loran-C Mid-Continent Expansion Project is a joint USCG/FAA project that closes the present gap in Loran-C coverage in the mid-continental area of the United States. This project will meet the FAA's requirements for aviation use of Loran-C in the National Airspace System.

To close the gap in Loran-C coverage, the USCG is expanding the Great Lakes Loran-C chain and creating two new Loran-C chains. The Great Lakes Chain (GRI 7980) is expected to begin providing expanded Loran-C coverage in December 1990.

The two new Loran-C chains will be the North Central U.S. and the South Central U.S. chains. The South Central U.S. Chain (GRI 9610) is expected to be operational in December 1990. This date does not include the Las Cruces, NM station which is expected to be operational in April 1991.

The North Central U.S. Chain (GRI 8290) is expected to be operational in April 1991.

The geodetic coordinates of these transmitter antenna positions are:

Station	Latitude	Longitude	Elevation
Boise City, OK	36°30'20.783"N	102°53'59.487"W	1406.9m.
Gillette, WY	44°00'11.305"N	105°37'23.895"W	1510.6m.
Havre, MT	48°44'38.589"N	109°58'53.613"W	851.5m.

The surveys were performed by the U.S. Defense Mapping Agency and are in the World Geodetic System 1984 at an achieved accuracy of 1 meter. The elevations are in meters in the National Geodetic Vertical Datum of 1929. The data for the Las Cruces, NM station will be released when the station survey is completed.

Dated: May 9, 1990.

R.T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90–11334 Filed 5–15–90; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89–055]

Study of the Use of Vessel Tonnage in U.S. Laws and Regulations; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting; extension of comment period.

SUMMARY: On April 3, 1990, the Coast Guard published a notice of public meeting (55 FR 12438) to present its preliminary results from an ongoing, Congressionally-mandated study on the use of vessel tonnage in U.S. laws and regulations. The address for the meeting was corrected by a document published on April 12, 1990 (55 FR 13878). At the public meeting on May 3, 1990, the Coast Guard received several requests to extend the comment period from May 14, 1990 to June 1, 1990. After being apprised of the preliminary results at the meeting, several representatives of major industry organizations suggested that more time would be necessary to formulate a meaningful response. Therefore, the Coast Guard is extending the comment period on its preliminary results of the study from May 14, 1990 to June 1, 1990.

DATES: Written comments must be received on or before June 1, 1990.

ADDRESSES: Written comments should be mailed to the Tonnage Survey Branch (G–MVI–5), room 1316, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–2992. Comments should identify this notice (CGD 89–055) and the sector of the maritime community that the person making the comments represents. Between the hours of 8 a.m. and 3 p.m. EST Monday through Friday, except Federal holidays, written comments may be hand-delivered to, and are available for inspection at, this address.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph T. Lewis, Chief, Tonnage Survey Branch (G–MVI–5), Office of Marine Safety, Security and Environmental Protection, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–2992, between 7:30 a.m. and 3:45 p.m. EST Monday through Friday, except Federal holidays.

Dated: May 10, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-11335 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

[Docket No. IP89-11; Notice 2]

Disposition of Petition for Determination of Inconsequential Noncompliance; Automobiles Peugeot

This notice grants for some vehicles, but denies for other vehicles, the petition by Automobiles Peugeot (Peugeot) of Paris, France, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for noncompliance with 49 CFR 571.110, Federal Motor Vehicle Safety Standard No. 110, "Tire Selection and Rims." The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on December 4, 1989, and an opportunity afforded for comment (54 FR 50836).

Paragraph S4.3 of Standard No. 110 requires that a tire placard be permanently affixed to the glove compartment door or an equally accessible location, and shall display the:

(a) Vehicle capacity weight;

(b) Designated seating capacity expressed in terms of total number of occupants and in terms of occupants for each seat location;

(c) Vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight and subject to the limitation of S4.3.1, for any other manufacturer-specified vehicle loading condition.

Peugeot provided incorrect information on 33,259 tire placards of 1986-89 model year 405 and 505 vehicles, a complete listing of which was published in Notice 1. These comprise 33 different model and model year combinations. The certification labels provided the correct gross axle weight rating. However, the total number of designated seating positions was understated. Also, the cold tire inflation pressures were given for normally loaded vehicles (2 rear occupants) instead of maximum loaded vehicle weight (3 rear occupants).

Puegeot supported its petition by stating that the "maximum" axle weight rating provided can support the weight of the vehicle when all of the designated seating positions are occupied. Peugeot also provided affidavits from the Michelin Tire Company which supported the fact that the tires which were placed on the vehicles that were marked with the incorrect vehicle capacity weight or tire pressure can still function properly under the conditions labeled on the tire placards.

No comments were received on the petition.

The agency has reviewed these noncompliances and, for the most part, concurs with the petitioner that they are inconsequential as they relate to motor vehicle safety. NHTSA has separated these noncompliances into four categories, discussed below.

The first category is where the only noncompliance is the lack of the exact wording "vehicle capacity weight" and "cold inflation pressure at maximum loaded vehicle weight." The placard supplied contains "Distribution Capacity Weight" with discrete figures given for front and rear seats, and trunks with cargo evenly distributed. Similarly, there is information under the heading "Recommended cold pressure" with psi figures for front and rear tires. Thus, the omission of the specific identifiers should not result on confusion in the reader as to proper weights and tire pressure figures.

The second category of noncompliances occurs where the indicated total number of designated seating positions in the rear (2) was less than the number that can actually be seated there (3), but the capacity weight figure provided is correct for the actual number of passengers that can be accommodated (3). The latter figure is the one with direct relevance to safety, and since it is correct, the petition may be granted.

The third category of noncompliance occurs when both the indicated number of designated seating positions and the assocaited capacity weight are incorrect. The agency conducted an analysis to determine whether this noncompliance was inconsequential, and determined that, for the most part, they were. In these instances, the recommended inflation pressures can accommodate up to the GAWR of the vehicle, when using any tire manufactured that is the size recommended on the tire placard.

For the reasons discussed above, and except as discussed below, petitioner has met its burden of persuasion that the noncompliances described for categories one through three are inconsequential as they relate to motor vehicle safety. The vehicle models that fall within the above three categories include all those identified in the petition except those mentioned in the following paragraph. Therefore, the petition is granted with respect to the models in categories one through three.

The remaining vehicles not covered by the granting of the petition fall into a fourth category. For these vehicles, both the designated number of seating positions and the associated capacity weight are incorrect, and the recommended inflation pressures may not accommodate the GAWR of the vehicle. In this instance, the agency is concerned with possible overloads on the tire and consequent deterioration of safety performance. There are only three models of vehicles in this category, the 1986 505 turbodiesel sedan, and the 1989 505 DL station wagon (both manual and automatic). With respect to these three models, petitioner has not met its burden of persuasion that the noncompliance herein described are inconsequential as they relate to motor vehicle safety and its petition is hereby denied.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 10, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-11333 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-59-M

Denial of Motor Vehicle Defect and Noncompliance Petition; Harry W. Sweeney

This notice sets forth the reasons for the denial of a petition submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

In January 1990, Mr. Harry M. Sweeney petitioned the National Highway Traffic Safety Administration requesting a defect investigation to determine whether a safety-related defect involving rear brake wheel cylinder rotation was present on certain 1978 through 1986 General Motors Corporation (GM) passenger cars and light trucks. The petition also requested an investigation to determine whether a noncompliance with a Federal Motor Vehicle Safety Standard (FMVSS) pertaining to the braking system exists in 1984 Pontiac Bonneville passenger cars.

The Office of Vehicle Safety Compliance (OVSC) tested a 1984 Pontiac Bonneville (the subject of the noncomliance petition) and three other GM vehicles of similar design several

years ago to the requirements of the applicable FMVSS (No. 105-75). They passed the tests, and the agency has no reason to doubt the results of these tests. Furthermore, OVSC conducts tests on new motor vehicles to determine whether they comply, as designed and produced, with the applicable FMVSS, but the alleged problem involves mechanical wear and loosening of the rear brake wheel cylinder retention system resulting from vehcile use, and possibly also age related corrosion. Therefore, the alleged problem involves a defect related issue, not a noncompliance related issue, and the noncompliance petition is denied.

The 12.3 million 1978 through 1986 GM vehicles which are the subject of the defect petition differ from older designs because they are equipped with a "Direct Torque Rear Brake System" which utilizes a flange welded to the axle housing, rather than a thick brake plate, to support the brake shoe anchor pin which is subjected to the full force of the brake torgue reaction. The petitioner alleges that the rear wheel cylinders which apply the brakes by pusing the brake shoes against each brake drum can loosen with respect to the thinner backing plate to which they are attached and rotate, causing a complete loss of all rear braking action if the wheel cylinder rotates sufficiently to disconnect from the brake shoes. Several design changes were made to wheel cylinders and backing plates to strengthen the wheel cylinder attachment between the 1978 and 1985 model years. The petition alleges all subject vehicles which were produced before the final design, which began to be incorporated in 1985 models (but was not installed in all 1985 and 1986 models), should have been recalled.

A preliminary investigation of loosening of the rear brake wheel cylinders on 1978 through 1981 models of the subject vehicles was initiated by NHTSA in 1985 (File PE85-029). The 1982 and 1983 models were added to the investigation and it was upgraded to an Engineering Analysis investigation (EA86-006) after GM agreed to recall 2.1 million vehicles (Recall 85V-048), but did not recall 6.8 million other vehicles, most of which had a similar but not identical wheel cylinder retention system design. The petition also accuses GM of providing incorrect information to NHTSA during EA86-006 because GM correspondence stated that an alignment clip designed to assist in preventing wheel cylinder rotation was "released" for installation in 1984 models as an interim improvement. The petitioner claims this clip was not present in the 1984 Pontiac Bonneville which is the subject of his noncompliance petition.

GM does not dispute (and NHTSA agrees) that disconnection of one or both rear wheel cylinders would result in a total loss of all braking from both rear brakes. However, GM disagrees with the petitioner's other allegation that a small amount of rear wheel cyliner rotation would cause the brakes to "pull," cuasing the vehicle to sweve to one side. GM also claims that the wheel cylinder attachment failure rate is low, and this, together with the fact that the front brakes remain unaffected, makes a recall campaign unnecessary.

In response to the defect petition, an updated search of NHTSA's consumer complaint file system was made, and copies of relevant accident reports or complaints received by GM were obtained. The complaint analysis was limited to accident reports because it was determined during the EA86-006 investigation that many owners who had not experienced a safety related failure complained about the expense of replacing backing plates when slightly loose wheel cylinders were detected during routine brake lining replacement servicing. A substantial number of relevant accidents would have already been reported if the alleged problem is safety related, because the 12.3 million vehicles have experienced approximately 90 million vehicle years exposure (corrected for attrition), and detached wheel cylinders are easily detectable by any mechanic.

Based on all relevant reports received from all sources, the reported accident rate for the group of vehicles which were later recalled was 2.9 accidents per 100,000 vehicles, and for vehicles not included in the recall the rate was 0.4 accidents per 100,000 vehicles. A total of 13 injury accidents and no fatalities were reported for the 10.2 million 1978 through 1986 model year vehicles which were not included in the recall. However, some of the reports may not be truly relevant because contradictory evidence exists in some cases. The complaint data, as well as warranty data, indicates that the vehicles which were excluded from the recall had a substantially lower failure rate than the recalled vehicles. The warranty rate for replacement of one or both rear brake backing plates (which must be replaced to restore rear braking function after a wheel cylinder has detached) was less than 0.04 percent for vehicles not included in the recall. Detachment of a rear wheel cylinder usually does not cause an accident because the front brakes remain fully functional and vehicle directional control is not significantly affected, but some accidents occurred because the stopping distance may be increased in some situations.

The petition also alleges that wheel cylinders which are sufficiently loose to permit some wheel cylinder rotation, but not sufficiently loose to result in a loss of hydraulic integrity, can cause uneven braking action, and that this can cause a vehicle to "pull" to one side when the brakes are applied. NHTSA has performed several investigations of alleged instability during braking in GM vehicles, including Investigative cases C81-009 (1980-1985 X-Body) and C85-007 (1982-1985 front wheel drive A-Body), and Engineering Analyses EA84-026, (1982 and 1983 Chevette Diesels), EA84-027, (1982 Firebird and Camaro), and EA84-028, (1981 and 1982 S10 & S15 Pickups). All of these investigations were based on receipt of relatively more complaints than for the petition vehicles (based on a peer group analysis), yet a safety-related defect was not found as a result of any of these investigations. Furthermore, a Federal court ruled that 1980 X-Body cars, which had a braking system similar to those in Investigative Case C81-009, did not contain a safety defect, even though they had generated a higher rate of complaints pertaining to directional instability during braking than any other group of passenger cars. Therefore, it appears there is no reasonable possibility that NHTSA would determine that a safety-related defect exists in the subject vehicles solely on the basis of complaints pertaining to directional stability during braking.

Minor relative rotation between the wheel cylinder and brake shoes occurs in the majority of passenger car brake drum systems, including those with perfectly immovable wheel cylinders. This is not noticeable to drivers, and a moderately loose wheel cylinder would either produce no, or very little, uneven braking. Furthermore, uneven rear braking was found to have a significant effect on vehicle control during numerous tests which have been performed in the past with numerous different passenger cards, including GM vehicles. Front braking problems tend to be more likely to produce significant "pulling" problems because they can affect the steering linkage. Also, drivers normally make minor steering corrections even with perfect vehicles, because many roads are not perfectly level, and vehicle passenger and luggage loads are usually not positioned

symmetrically. Since the most extreme uneven rear braking possible (zero vs. 100 percent) is barely noticeable to most drivers, it appears that minor wheel cylinder rotation would not cause a vehicle control problem.

In consideration of the available information, it was concluded that there was not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the petitioner's allegations would be issued at the conclusion of a new investigation. Since no evidence of a safety-related defect trend (except in vehicles already recalled) was discovered, further commitment of resources to determine whether such a trend may exist does not appear to be warranted. Therefore, the petition is denied.

Authority: Sec. 124, Pub. L. 93-492: 88 Stat. 1470 (U.S.C. 1410a); Delegations of authority at 49 CFR 1.50 and 501.8

Issued on May 10, 1990.

George L. Reagle,

Associate Administrator for Enforcement.

[FR Doc. 90-11392 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; 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 June 15, 1990.

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.

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
10364-N	Hoechst Celanese, Corp., Somerville, NJ	49 CFR 173.3-C(1)	To authorize the use of non-DOT specification 55 gallon metal drums, for shipment of corrosive liquid, overpacked in savage drums. (mode 1).
10365-N	U.S. Department of Energy, Washington, DC	49 CFR 178.121-1(b)	To authorize the use of model 30A or 30B cylinders, containing radioactive material, with 21PT-1A and 21PF-1B overpacks without a maximum gross weight limit. (mode 1).
10366-N	LTV Energy Products Co., Garland, TX	49 CFR 173.119, 173.304, 173.315.	To manufacture, mark and sell non-DOT specification containers described as a meter prover assembly for transportation of various hydrocarbon products classed as flammable liquids or flammable gas. (mode 1).
10367-N	Ace Striping Co., Inc., Shreveport, LA	49 CFR 173.33	To authorize shipment of paint, classed as a flammable liquid, in non-DOT specification metal portable tank. (mode 1).
10370-N	Welker Engineering Co., Sugar Land, TX	49 CFR 173.119, 173.304	To authorize the use of non-DOT specification cylinders constructed of 6061-T6A1 aluminum with a maximum working pressure of 600 psig for transportation of flammable gas and flammable liquid. (mode 1).
10371-N	Bruin Engineered Parts, Inc., Midland, Ontario, Canada.	49 CFR 173.306, 178.42	To manufacture, mark and sell non-DOT specification cylinders similar to 3E construction with service pressure of 750 psi containing non-flammable gas. (mode 1).
10372-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.119, 173.24, 173.302, 173.304, 173.327, 173.328, 173.34, 173.346.	To authorize the use of a non-DOT specification salvage cylinder to overpack and transport damaged or leaking packages of various hazardous materials. (mode 1).
10373-N	Day & Zimmermann, Inc., (DZI), Parsons, KS	49 CFR 173.56 (b), (c)(1), 173.86(b).	To authorize shipment of explosive projectiles, Class A explosives in specially designed military packaging, exceeding weight limitaties. (modes 1, 2).
10374-N	Soltralentz, S.W., Drulingen, France	49 CFR 173.119, 173.125, 173.245, 173.249, 173.249a, 173.250a, 173.256, 173.257, 173.262, 173.263, 173.264, 173.265, 173.266, 173.269, 173.292, 173.297, 173.299a.	To manufacture, mark and sell a blow-molded, polyethylene tank within a wire frame enclosure, for the shipment of certain hazardous materials (modes 1, 2, 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 May 9, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-11331 Filed 5-15-90; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or

application 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 Transportation 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. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before May 30, 1990.

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.

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.

Application No.	Applicant	Renewal of exemption
3142-X	U.S. Department of Energy, Albuquerque, NM	3142
3330-X	Teledyne Wah Chang Albany Corp., Albany, OR	3330
4588-X	U.S. Department of Energy, Albuquerque, NM	4588
4734-X	General Electric Co.—Silicones, Waterford, NY	4734
5600-X	Airco Electronic Gases, San Marcos, CA	5600
5704-X	Aerojet Solid Propulsion Co., Sacramento, CA	5704
6016-X	Weiler Welding Company, Inc., Dayton, OH	6016
6442-X	U.S. Department of Defense, Falls Church, VA	6442
6472-X	Thiokol Corp., Brigham City, UT	6472
6518-X	Syntex Chemicals, Inc., Boulder, CO	6518
6518-X	Union Carbide Chemicals & Plastics Co., Inc., Charleston, WV [1]	6518
6518-X	Union Carbide Chemicals & Plastics Co., Inc., Charleston, WV	6518
6543-X	Union Carbide Industrial Gases, Inc., Danbury CT	6543
6543-X	Corning Inc., Corning, NY	6543
6610-X	ARCO Chemical Co., Newtown Square, PA	6610
6626-X	Brown Welding Supply, Inc., Salina, KS	6626
6626-X	Airco—The BOC Group, Inc., Murray Hill, NJ	6626
6670-X	E.I. du Pont de Nemours & Co., Wilmington, DE	6670
6724-X	U.S. Department of Defense, Falls Church, VA	6724
6769-X	E.I. du Pont de Nemours & Co., Wilmington, DE [2]	6769
6874-X	Degussa Corp., Ridgefield Park, NJ	6874
6960-X	Pepsi-Cola Co., Somers, NY	6960
7026-X	Walter Kidde, Wilson, NC	7026
7032-X	Polaroid Corp., Needham Heights, MA	7032
7040-X	Polaroid Corp., Needham Heights, MA	7040
7041-X	Ethyl Corp., Baton Rouge, LA	7041
7052-X	Battery Assemblers Inc., Bohemia, NY	7052
7052-X	Priebe Electronics, Redmond, WA	7052
7097-X	Plant Products Corp., Vero beach, FL	7097
7247-X	U.S. Department of Defense, Falls Church, VA	7247
7259-X	Monsanto Chemical Co., St. Louis, MO	7259
7767-X	Walter Kidde, Wilson, NC	7767
7768-X	Sonoco Plastic Drum, Inc., Lockport, IL [3]	7768
7823-X	Marubeni Corp., Tokyo, Japan	7823
7840-X	McDonnell Douglas, Long Beach, CA	7840
8013-X	Union Carbide Industrial Gases, Inc., Danbury CT	8013
8051-X	Mauser Packaging, Limited, Litchfield, CT	8051
8060-X	SLEMI, Paris, France	8060
8060-X	Arbel-Fauvet-Rail, Douai, Cedex, France	8060
8080-X	American Chrome & Chemicals, Inc. Corpus Christi, TX	8080
8127-X	Ercros, S.A., Madrid, Spain	8127
8141-X	Whittaker-Yardney Systems, Waltham, MA	8141
8308-X	Del-Med, Inc., South Plainfield, NJ	8308
8337-X	Industrial & Municipal Engineering, Inc., Galva, IL	8337
8397-X	Mauser Packaging, Limited, Litchfield, CT	8397
8451-X	Schlumberger Well Services, Rosharon, TX	8451
8451-X	Unidynamics Phoenix, Inc., Goodyear, AZ	8451
8451-X	Boeing Commercial Airplane Group, Wichita, KS	8451
8473-X	EVA Eisenbahn-Verkehrsmittel GmbH, 4000 Dusseldorf 1, West Germany	8473
8509-X	Mobay Corp., Pittsburgh, PA	8509
8526-X	Birko Corp., Westminster, CO	8526
8526-X	Key Way Transport, Inc., Baltimore, MD	8526
8554-X	Maurer & Scott Inc., Lehigh Valley, PA	8554
8554-X	SherDeb Corp., Lehigh Valley, PA	8554
8554-X	Blasting Supplies Co., Inc., Lehigh Valley, PA	8554
8554-X	W.A. Murphy, Inc., El Monte, CA	8554
8554-X	Energy Ventures Corp, dba Columbus Powder Co., Columbus, IN	8554
8554-X	Econexpress, Inc., Wheaton, IL	8554
8554-X	Pepin-Ireco, Inc., Ishpeming, MI	8554

Application No.	Applicant	Renewal of exemption
8554-X	Explosives Technologies Int., Inc. (ETI), Wilmington, DE	8554
8554-X	Minnesota explosives Co., Biwabik, MN	8554
8554-X	Dole Explosives, Inc., Rosemount, MN	8554
8554-X	IRECO, Inc., Salt Lake City, UT	8554
8570-X	Snyder Industries, Inc., Lincoln, NE	8570
8582-X	Kansas City Southern Railway Co., Kansas City, MO	8582
8582-X	Louisana & Arkansas Railway Co., Kansas City, MO	8582
8723-X	Dama Inc., Roanoke, VA	8723
8723-X	Winchester Building Supply Co., Inc., Winchester, VA	8723
8723-X	Explosives Experts, Inc., Sparks, MD	8723
8723-X	SherDeb Corp., Lehigh Valley, PA	8723
8723-X	Austin Powder Co., Cleveland, OH	8723
8723-X	Atlas Powder, CO., Dallas, TX	8723
8723-X	Dyna-Blast, Inc., Nortonville, KY	8723
8723-X	Strawn Explosives, Inc., Dallas, TX	8723
8723-X	Minnesota Explosives Co., Biwabik, MN	8723
8723-X	Pepin-Ireco, Inc., Ishpeming, MI	8723
8723-X	Wampum Hardware Co., New Galilee, PA	8723
8733-X	ICI Americas, Inc., Wilmington, DE	8733
8809-X	Sonoco Fibre Drum, Inc., Lombard, IL	8809
8839-X	Poly Processing Co., Inc., Monroe,[4]	8839
8862-X	Union Carbide Industrial Gases, Inc., Danbury, CT	8862
8878-X	Corning Inc., Corning, NY	8878
8878-X	Amalgamet Canada—Division of Premetalco, Inc., Toronto, Ontario, Canada, NY	8878
8911-X	Olin Corporation—Winchester Group, East Alton, IL	8911
8913-X	Eurotainer, S.A., Paris, France	8913
8942-X	Poly Processing Co., Inc., Monroe, LA [5]	8942
9077-X	Central Vermont Railway, Inc., St. Albans, VT	9077
9164-X	Fabricated Metals, Inc., San Leandro, CA [6]	9164
9222-X	Bryson Industrial Services, Inc., Lexington, SC	9222
9235-X	Bennett Industries, Peotone, IL	9235
9275-X	Ortho Pharmaceutical Corp., Somerset, NJ	9275
9277-X	American Cyanamid Co., Wayne, NJ	9277
9282-X	Halocarbon Products Corp., North Augusta, SC	9282
9331-X	Rio Linda Chemical Co., Inc., Sacramento, CA	9331
9331-X	Hoechst Celanese Corp., Somerville, NJ	9331
9331-X	Albright & Wilson Americas (Canada), Toronto, Ontario, Canada	9331
9346-X	Koppers Industries, Inc., Pittsburgh, PA [7]	9346
9374-X	Poly Processing Co., Inc., Monroe, LA [8]	9374
9400-X	Poly Processing Co., Inc., Monroe, LA [9]	9400
9508-X	Callery Chemical Co., Pittsburgh, PA	9508
9583-X	Schlumberger Well Services, Houston, TX	9583
9584-X	Schlumberger Well Services, Houston, TX	9584
9609-X	Applied Co., San Fernando, CA	9609
9632-X	Chemical Industries of Northern Greece, S.A., Thessaloniki, Greece	9632
9638-X	Allied-Signal Aerospace Co., Tempe, AZ [10]	9638
9819-X	Halliburton Services, Duncan, OK	9819
9876-X	Metalcraft, Inc., Baltimore, MD	9876
9912-X	Poly Processing Co., Monroe, LA [11]	9912
9914-X	Explosives Technologies Intl., Inc. (ETI), Wilmington, DE	9914
9920-X	Tri-Wall Co., Louisville, KY	9920
9934-X	Aldrich Chemical Co., Inc., Milwaukee, WI	9934
9941-X	Thiokol Corp.—Huntsville Div., Huntsville, AL	9941
9941-X	McDonnell Douglas, Huntington Beach, CA	9941
9977-X	Hercules Aerospace Co., Magna, UT	9977
9983-X	ET, Inc., Fairfield, CA	9983
9993-X	Goex, Inc., Cleburne, TX	9993
10016-X	Ecolab Inc., Eagan, MN	10016
10050-X	Ceodeux, S.A., Lintgen, Luxembourg, G.D. [12]	10050
10176-X	Eveready Battery Co., Inc., Westlake, OH [13]	10176
10207-X	Atlantic Research Corp.; Gainesville, VA [14]	10207

[1] To authorize additional English steel portable tanks identical to those presently authorize for shipment of certain flammable liquids and solids.

[2] To authorize the shipment of blends of 20-50% chlorodifluoromethane and 80-50% dimethyl ether in DOT specification 105A6000W tank cars and MC331 cargo tanks with replacement outlet valves.

[3] To authorize a 25 gallon capacity polyethylene removable head drum to provide for injection-molded process and to modify test criteria.

[4] To authorize marking by etching or stamping of the certification into the polyethylene of the portable tanks and to modify periodic testing requirements.

[5] To authorize marking by etching or stamping the certification into the polyethylene of the portable tanks and to modify periodic testing requirements.

[6] To authorize resin solution, classed as flammable liquid, as an additional commodity.

[7] To authorize shipment of caustic soda, liquid, classed as corrosive material in authorized tank cars, however, deviating from hard brake and blocking provisions.

[8] To authorize marking by etching or stamping the certification into the polyethylene of the portable tanks and to modify periodic testing requirements.

[9] To authorize marking by etching stamping the certification into the polyethylene of the portable tanks and to modify periodic testing requirements.

[10] To modify exemption to include alternate toroid (bent-tube design) manufacturing process to produce non-DOT specification welded pressure vessels for shipment of non-flammable gas.

[11] To authorize marking by etching or stamping the certification into the polyethylene of the portable tanks and to modify periodic testing requirements.

[12] To authorize air and water as additional modes and decrease valve cycle requirement to 5,000 for pneumatically operated valves on cylinders containing poison B materials.

[13] To modify exemption to increase gram content to 1½ for lithium batteries; authorize UN4G fiberboard box and revise labeling, marking and placarding requirements.

[14] To authorize shipment of additional rocket motor with igniter installed and in a propulsive state.

Application No.	Applicant	Parties to exemption
6016-P	The Bathke Co., Minneapolis, MN	6016
6530-P	Wilson Supply, Cumberland, MD	6530
6971-P	EM Science, Cincinnati, OH	6971
7052-P	Pacific Electro Dynamics, Redmond, WA	7052
7052-P	SimTronix, Ytre Laksevag, Norway	7052
7607-P	Brewer Chemical Corp., Honolulu, HI	7607
8451-P	Scot, Inc., Downers Grove, IL	8451
8451-P	E. I. du Pont de Nemours and Co., Wilmington, DE	8451
8473-P	Eurotainer SA, Inc., Paris France	8473
8554-P	Farmers Supply & Explosives, Inc., Barbourville, KY	8554
8582-P	Keokuk Junction Railway, Keokuk, IA	8582
8723-P	Southeastern Energy, Inc., Louisville, TN	8723
8802-P	Eurotainer SA, Inc., Paris France	8802
8968-P	Eurotainer SA, Inc., Paris France	8968
9017-P	Eurotainer SA, Inc., Paris France	9017
9142-P	Eurotainer SA, Inc., Paris France	9142
9168-P	Bayfast Packaging Solutions, Pacifica, CA	9168
9723-P	D & J Transportation Specialists, Inc., Syracuse, NY	9723
9723-P	Price Trucking Corp., Buffalo, NY	9723
9723-P	HazMat Environmental Group, Inc., Buffalo, NY	9723
9758-P	Taymar Limited, Stockport, Cheshire, England	9758
9970-P	E. I. du Pont de Nemours and Co., Wilmington, DE	9970
10108-P	Mitsui & Co. (U.S.A.), Inc., New York, NY	10108
10307-P	E. I. du Pont de Nemours and Co., Wilmington, DE	10307

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 May 4, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-11332 Filed 5-15-90; 8:45 pm]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 9, 1990.

The Department of the 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: 1545-0134.

Form Number: IRS Form 1128.

Type of Review: Revision.

Title: Application to Adopt, Change, or Retain a Tax Year.

Description: Form is needed in order to process taxpayers' requests to change their tax year. All information requested in used to determine whether the application should be approved. Respondents are taxable and nontaxable entities including individuals, partnerships, corporations, estates, tax-exempt organizations and cooperatives.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Response/Recordkeeping: 20,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Parts I & II	Parts I & III
Recordkeeping	8 hrs., 37 min.	13 hrs., 10 hrs.
Learning about the law or the form.	2 hrs., 35 min.	3 hrs., 58 hrs.
Preparing and sending the form to IRS.	2 hrs., 50 min.	4 hrs., 22 hrs.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 340,280 hours.

OMB Number: 1545-0922.

Form Number: IRS Forms 8329 and 8330.

Type of Review: Extension.

Title: Lender's Information Return for Mortgage Credit Certificates (MCCs) (8329); and Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs) (8330).

Description: Form 8329 is used by lending institutions and Form 8330 is used by State and local governments to report on mortgage credit certificates (MCCs) authorized under IRS section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Respondents: State or local governments, Businesses or other for-profit.

Estimated Number of Responses/Recordkeepers: 10,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

	8329	8330
Recordkeeping	3 hrs., 21 min.	4 hrs., 32 min.
Learning about the law or the form.	35 min.	1 hrs., 12 min.
Preparing and sending the form to IRS.	41 min.	1 hrs., 19 min.

Frequency of Response: Form 8329 - Annually.

Form 8330 - Quarterly.

Estimated Total Reporting/Recordkeeping Burden: 60,300 hours.

OMB Number: 1545-0962.

Form Number: IRS Publications 1075.

Type of Review: Extension.

Title: Safeguard Procedures and Safeguard Activity Reports.

Description: Internal Revenue Code Section 6130(p) requires that IRS provide periodic reports to Congress describing safeguard procedures, utilized by agencies which receive information from IRS, to protect the confidentiality of the information. This section also requires that these agencies furnish reports to the IRS describing their safeguards.

Respondents: State or local governments, Businesses or other for-

profit, Federal agencies or employees, Non-profit institutions.

Estimated Number of Responses: 5,100.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: Annually

Estimated Total Reporting Burden: 25,000 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,

Department Reports, Management Officer.

[FR Doc. 90-11317 Filed 5-15-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 95
Wednesday, May 16, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 F.R. 19143.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Wednesday, May 30, 1990.

CHANGE IN THE MEETING: The Commission has cancelled the closed meeting to discuss a Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 90-11537 Filed 5-14-90; 3:20 pm]
BILLING CODE 6351-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 10, 1990.

TIME AND DATE: 10:00 a.m., Thursday, May 17, 1990.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Paula Price v. Monterey Coal Company*, Docket No. LAKE 86-45-D. (Issues include whether the judge erred in sustaining Price's complaint of discrimination filed pursuant to section 105(c) of the Mine Act. 30 U.S.C. § 815(c).)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 90-11518 Filed 5-14-90; 12:41 pm]
BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 21, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 11, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-11442 Filed 5-11-90; 4:57 pm]
BILLING CODE 6210-01-M

LEGAL SERVICES CORPORATION

Presidential Search Committee; Amended Notice

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR. 90-11207 at 55FR19-829, May 11, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: The meeting was to have taken place on May 20, 1990, commencing at 1:00 p.m.

EXPLANATION OF CHANGE: The meeting time has been changed from 1:00 p.m. to 12:00 p.m.

STATUS OF MEETING: Open [A portion of the meeting may be closed subject to the recorded vote of a majority of the Board of Directors to discuss matters related to Presidential Search as authorized under The Government in the Sunshine Act [5 U.S.C. 552b (c) (2), (6), and (9)(B) and 45 CFR 1622.5 (a), (e), and (g)]].

MATTERS TO BE CONSIDERED: A portion of the meeting may be closed for the reasons cited above, subject to an advance recorded vote of a majority of the Board of Directors.

1. Matters Related to Presidential Search.
(a) Review of Resumes.
(b) Review of Procedures.
(c) Review of Standards/Qualifications.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: May 11, 1990.

Maureen R. Bozell,
Corporation Secretary.

[FR Doc. 90-11439 Filed 5-11-90; 4:25 pm]
BILLING CODE 7050-01-M

NATIONAL MEDIATION BOARD

MEETING

TIME AND DATE: 2:00 p.m., Wednesday, June 6, 1990.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street NW., Washington, D.C.

STATUS:

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of May, 1990.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. William A. Gill, Jr., Acting Executive Director, Tel: (202) 523-5920.

Date of Notice: May 10, 1990.

William A. Gill, Jr.,
Acting Executive Director, National Mediation Board.

[FR Doc. 90-11485 Filed 5-14-90; 12:47 pm]
BILLING CODE 7550-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, May 22, 1990.

PLACE: Board Room 812A, Eighth floor, 800 Independence Avenue SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Recommendation to FAA: Require the Use of Approved Restraint Devices for Infants and Small Children. (Calendared by Member Burnett.)

2. Safety Recommendations Status Assignments. (Calendared by Member Burnett.)

News media, please contact Melba Moye at (202) 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: May 11, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90-11448 Filed 5-14-90; 9:11 am]

BILLING CODE 7533-01-M

TENNESSEE VALLEY AUTHORITY

MEETING

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 14, 1990, 55 FR 20021.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (EDT), Wednesday, May 16, 1990.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

CHANGES IN MEETING: Each member of the TVA Board of Directors has approved the addition of the following item to the previously announced agenda:

C—Power Item

1. Amendatory Agreement with the City of Memphis, Tennessee, Memphis Light, Gas and Water Division and TVA to provide for MLG&W's participation in TVA's Growth Credit Program, and to provide a credit reflecting that MLG&W provides its own high-voltage transmission system.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 479-4412.

Edward S. Christenbury,

General Counsel and Secretary to the Board.

[FR Doc. 90-11468 Filed 5-14-90; 10:52 am]

BILLING CODE 8120-01-M

Corrections

Federal Register
Vol. 55, No. 95
Wednesday, May 16, 1990

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 DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

Correction

In notice document 90-10501 appearing on page 18929 in the issue of Monday, May 7, 1990, in the second column, in the tenth line from the bottom, "22-23 May" should read "25 May".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-086-GNC]

Criteria and Standards for Evaluating Intermediary and Carrier Performance

Correction

In notice document 90-10153 beginning on page 18391 in the issue of Wednesday, May 2, 1990, make the following corrections:

1. On page 18393, in the first column, in the second complete paragraph, in the first line "able" should read "unable".

2. On the same page, in the third column, in the fourth from last line, after "20 points" insert a closing parenthesis.

3. On page 18395, in the second column, the 17th line should read "● Process correspondence accurately (Standard 3=25 points) (Quality)".

4. On page 18396, in the third column, in the eighth line "ore" should read "or".

BILLING CODE 1505-01-D

federal register

Wednesday,
May 16, 1990

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 13, 47, 61, 91, 183

Drug Enforcement Assistance; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 13, 47, 61, 91 and 183

[Docket No. 26148, Notice No. 90-9A]

RIN 2120-AD16

Drug Enforcement Assistance

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Extension of comment period.

SUMMARY: This notice announces an extension of the comment period from May 11, 1990, until July 11, 1990, on the FAA's Drug Enforcement Assistance Notice of Proposed Rulemaking (NPRM) (55 FR 9270, March 12, 1990). In the NPRM, the FAA: (1) Is proposing to revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations; and (2) announces new procedures for processing major repair and alteration forms that pertain to fuel system modifications. The proposals respond to the FAA Drug Enforcement Assistance Act of 1988 and would assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft.

DATES: Comments must be received on or before July 11, 1990.

ADDRESSES: Comments must be sent or delivered in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket, AGC-10, room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked Docket No. 26148. Comments may be examined in the Rules Docket between 8:30 a.m. and 5 p.m. on weekdays, except Federal holidays. Late-filed comments will be considered to the extent possible.

FOR FURTHER INFORMATION CONTACT: Earl F. Mahoney, Registry Modernization Program Staff (AVN-7), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, 6500 S. MacArthur Blvd., Oklahoma City, OK 73125, telephone (405) 680-7357.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. All communications received on or before the closing date for comments will be considered by the Federal Aviation Administration (FAA) before taking action on the proposed rule. All comments submitted will be available, both before and after the closing date for the comment period, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Commenters who desire that the FAA acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to docket number 26148." The postcard will be dated, time-stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of the NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the notice number of the NPRM (90-9). Persons interested in being placed on the mailing list for future NPRM's should also request a copy of Advisory Circular 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Extension of Comment Period

On April 6, 1990, the Aircraft Owners and Pilots Association (AOPA) requested a 60-day extension of the comment period. AOPA states that it promptly reviewed the NPRM and prepared an analysis for its members which will appear in the May issue of the *AOPA Pilot* magazine to be distributed in early May. AOPA states that the May 11, 1990 closing date would not allow enough time for AOPA members to review the analysis and provide meaningful information on which AOPA could formulate its comments. Another commenter, Mr. Jack W. Tunstill, states, consistent with the AOPA request, that general aviation pilots and owners generally do not get their information directly from the **Federal Register**, but rather rely on national publications with printing schedules that are not compatible with the 60-day comment period. Several other commenters state their belief that the 60-day comment period is inadequate due to the length, complexity, and significance of the proposals in the NPRM. Finally, Cessna Finance Corporation states that the proposals in the NPRM, if adopted, would have a tremendous impact on the way the finance industry completes loans on airplanes and that the announced 60-day comment period is not adequate for it to evaluate the proposed changes and formulate a proper comment.

In spite of the fact that some members of the general public may rely on sources other than the **Federal Register** for information concerning agency activities, the **Federal Register** constitutes legal notice to the general public of the agency's proposed rulemaking actions. It is the FAA's goal to permit all interested persons an opportunity to participate in FAA rulemaking to the extent practicable. To that end the FAA usually provides fairly lengthy comment periods so that persons who obtain information from secondary sources can participate. In addition, the FAA maintains a mailing list of persons interested in receiving future NPRM's. (See section entitled "Availability of NPRM" above.) The FAA will continue to make every reasonable effort to provide the public the opportunity to participate.

The FAA believes that extending the comment period for 60 days is warranted for the reasons expressed by some of the commenters, in light of the fact that there is no compelling, countervailing interest to the contrary. The extension will provide adequate time for readers to obtain a copy of the complete NPRM, if desired, from the FAA, and to do research and prepare comments. The FAA believes it will receive comments from a larger number of persons than would be submitted within the initial 60-day period and therefore will promote better decisionmaking.

Therefore, the FAA provides an additional 60 days for persons to comment. Comments are now due on July 11, 1990.

Issued in Washington, DC, on May 10, 1990.

Darlene M. Freeman,

Deputy Associate Administrator for Aviation Standards.

[FR Doc. 90-11345 Filed 5-11-90; 9:42 am]

BILLING CODE 4910-13-M

federal register

Wednesday
May 16, 1990

Part III

Federal Communications Commission

47 CFR Part 1 et al.

Environmental Impact Statements; Final and Proposed Rules

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 5, 21, 22, 25, 63, 74, 78, 80, 90, 95, 97, and 99

[General Docket No. 88-387; FCC 90-122]

Environmental Impact Statements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is issuing this Order to ensure that it is fully meeting its responsibilities under the Federal environmental laws with regard to communications facilities for which preconstruction approval is not required by the Communications Act or the Commission's rules. The new rule requires that, with respect to radio communication facilities that do not require preconstruction authorization, but which may have a significant environmental impact, applicants and licensees must submit Environmental Assessments and undergo Commission environmental review before they initiate construction.

EFFECTIVE DATE: June 15, 1990.

FOR FURTHER INFORMATION CONTACT: David H. Solomon, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION: The rule amendments contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, record keeping, labelling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public. This is a summary of the Commission's Order, adopted April 6, 1990, FCC 90-122. The full text of this Commission decision is available for public inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this decision and the rule amendments may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857-3800. 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order

1. With respect to communication facilities that do not require preconstruction authorization, but which may have a significant environmental impact, the Commission has amended 47 CFR 1.1312 to require that applicants and licensees submit Environmental Assessments and undergo Commission environmental review before they initiate construction. For facilities that are categorically excluded from the environmental processing rules, applicants and licensees may continue to proceed with construction in accordance with the Commission's applicable licensing procedures. The Commission has exempted mobile stations from the revised environmental requirement, given the unlikelihood that such stations will significantly affect the environment.

2. The Commission determined that it was necessary to strengthen its environmental regulations in this area. The new requirement will ensure that environmental review occurs prior to the initiation of construction of facilities, thereby minimizing the risk of environmental harm.

3. The Commission also amended 47 CFR 1.1303 to clarify that the environmental requirements contained in part 1 will govern over other provisions of our rules. Additionally, to eliminate confusion, we have revised various other provisions of the rules to conform to the requirements, as well as the terminology, of our environmental rules.

4. In view of the foregoing and pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, section 4332 of the National Environmental Policy Act, section 1536 of the Endangered Species Act, and section 470-f of the National Historic Preservation Act, *it is ordered*, That parts 1, 5, 21, 22, 25, 63, 74, 78, 80, 90, 95, 97, and 99 of the Commission's rules are amended as set forth below, effective June 15, 1990.

List of Subjects

47 CFR Part 1

Environmental impact statements.

47 CFR Parts 5, 21, 22, 25, 63, 74, 78, 80, 90, 95, 97, and 99

Radio.

Rule Changes

Part 1 of title 47 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended: 47 U.S.C. 154, 303, Implement, 5 U.S.C., 552, unless otherwise noted.

2. Section 1.1303 is revised to read as follows:

§ 1.1303 Scope.

The provisions of this subpart shall apply to all Commission actions that may or will have a significant impact on the quality of the human environment. To the extent that other provisions of the Commission's rules and regulations are inconsistent with the subpart, the provisions of this subpart shall govern.

3. Section 1.1312 and its heading are revised to read as follows:

§ 1.1312 Facilities for which no preconstruction authorization is required.

(a) In the case of facilities for which no Commission authorization prior to construction is required by the Commission's rules and regulations the licensee or applicant shall initially ascertain whether the proposed facility may have a significant environmental impact as defined in § 1.1307 of this part or is categorically excluded from environmental processing under § 1.1306 of this part.

(b) If a facility covered by paragraph (a) of this section may have a significant environmental impact, the information required by § 1.1311 of this part shall be submitted by the licensee or applicant and ruled on by the Commission, and environmental processing (if invoked) shall be completed, see § 1.1308 of this part, prior to the initiation of construction of the facility.

(c) If a facility covered by paragraph (a) of this section is categorically excluded from environmental processing, the licensee or applicant may proceed with construction and operation of the facility in accordance with the applicable licensing rules and procedures.

(d) Paragraphs (a) through (c) of this section shall not apply to the construction of mobile stations.

Part 5 of title 47 of the Code of Federal Regulations is amended as follows:

PART 5—[AMENDED]

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended, 47 U.S.C. 301.

2. Section 5.51 is amended to add paragraph (c) to read as follows:

§ 5.51 Station authorization required.

* * * * *

(c) If installation and/or operation of the equipment may significantly impact the environment, see § 1.1307 of this chapter, an environmental assessment as defined in § 1.1311 of this chapter must be submitted with the application.

Part 21 of title 47 of the Code of Federal Regulations is amended as follows.

PART 21—[AMENDED]

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

Authority: Secs. 4 and 303, 48 Stat. 1066, 1082, as amended. 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 21.3 is amended to add paragraph (c) to read as follows:

§ 21.3 Station authorization required.

* * * * *

(c) If construction and or operation may have a significant environmental impact as defined by § 1.1307 of the Commission's rules, the requisite environmental assessment as prescribed in § 1.1311 of this chapter must be filed with the application and Commission environmental review must be completed before construction of the station is initiated. See § 1.1312 of this chapter.

3. Section 21.23 is amended by revising paragraph (c)(4) to read as follows:

§ 21.23 Amendment of applications.

* * * * *

(c) * * *

(4) If the amendment would convert a proposal, such that it may have a significant impact upon the environment under § 1.1307 of the Commission's rules, which would require the submission of an environmental assessment, see § 1.1311 of this chapter, and Commission environmental review, *see* §§ 1.1308 and 1.1312 of this chapter.

* * * * *

Part 22 of title 47 of the Code of Federal Regulations is amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.1 is amended by revising paragraph (b) to read as follows:

§ 22.1 Other applicable rule parts.

* * * * *

(b) Part 1 of this chapter includes rules of practice and procedure for adjudicatory proceeding including hearing proceedings, rule making proceedings, procedures for reconsideration and review of the Commission's actions; and provisions for environmental processing requirements.

* * * * *

2. Section 22.13 is amended by revising paragraph (e) to read as follows:

§ 22.13 General application requirements.

* * * * *

(e) All applicants are required to indicate at the time their application is filed whether or not a Commission grant of the application may have a significant environmental impact as defined by § 1.1307 of the Commission's rules. If answered affirmatively, the requisite environmental assessment as prescribed in § 1.1311 of this chapter must be filed with the application and Commission environmental review must be completed prior to construction. See § 1.1312 of this chapter.

* * * * *

3. Section 22.20 is amended by revising paragraph (b)(5) to read as follows:

§ 22.20 Defective applications.

* * * * *

(b) * * *

(5) The application does not include an environmental assessment as required for an action that may have a significant impact upon the environment, as defined in § 1.1307 of this chapter.

* * * * *

4. Section 22.117 is amended by revising paragraph (b)(4) to read as follows:

§ 22.117 Transmitters.

* * * * *

(b) * * *

(4) Commission action would be categorically excluded from the Commission's environmental rules, see § 1.1306 of this chapter. If the action is not categorically excluded, and under § 1.1307 of this chapter may have a significant environmental impact, the requisite environmental assessment as prescribed in § 1.1311 of this chapter must be filed and Commission environmental review must be completed prior to the installation of the transmitter.

5. Section 22.913 is amended by revising paragraph (a)(10) to read as follows:

§ 22.913 Content and form of MSA and NECMA applications.

(a) * * *

(10) Where grant of the application may have a significant environmental impact under § 1.1307 of this chapter, the applicant must submit an environmental assessment, see § 1.1311 of this chapter, and Commission environmental review must be completed prior to the construction of facilities. See § 1.1312 of this chapter.

* * * * *

Part 25 of title 47 of the Code of Federal Regulations is amended as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744.

2. Section 25.390 is amended by adding paragraph (d)(1)(iii) to read as follows:

§ 25.390 Developmental operation.

* * * * *

(d) * * *

(1) * * *

(iii) The antenna structures proposed to be erected may have a significant effect on the environment see § 1.1307 of this chapter, and if so, the requisite environmental assessment defined in § 1.1311 of this chapter, must be filed with the Commission and Commission environmental review must be completed prior to the erection of the structure. See § 1.1312 of this chapter.

* * * * *

Part 63 of title 47 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214.

2. Section 63.03 is amended by revising paragraph (a)(4) to read as follows:

§ 63.03 Special provisions relating to small projects for supplementing of facilities.

(a) * * *

(4) An action that may have a significant impact upon the environment, see § 1.1307 of this chapter.

* * * * *

Part 74 of title 47 of the Code of Federal Regulations is amended as follows:

PART 74—[AMENDED]

1. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U.S.C. 301, 303, 307.

2. Section 74.112 is amended by adding paragraph (f) to read as follows:

§ 74.112 Supplementary statement with application for construction permit.

* * * * *

(f) That if approval of the experimental broadcast station may have a significant environmental impact, see § 1.1307 of this chapter, submission of an environmental assessment, under § 1.1311 of this chapter, and compliance with the Commission's environmental rules contained in part 1 of this chapter is required.

Part 78 of title 47 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for part 78 contains to read as follows:

PART 78—[AMENDED]

Authority: Secs. 2, 3, 4, 301, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 47 U.S.C. 152, 153, 154, 301, 303, 308, 309.

2. Section 78.15 is amended by revising paragraph (c) to read as follows:

§ 78.15 Contents of applications.

* * * * *

(c) CARS applicants must follow the procedures prescribed in subpart 1 of part 1 of this chapter (§§ 1.1301 through 1.1319) regarding the filing of environmental assessments unless Commission action authorizing construction of a CARS station would be categorically excluded from the environmental processing requirements under § 1.1306 of this chapter.

Part 80 of title 47 of the Code of Federal Regulations is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.3 is amended by revising paragraph (b) to read as follows:

§ 80.3 Other applicable rule parts of this chapter.

* * * * *

(b) *Part 1.* This part includes rules of practice and procedure for license applications, adjudicatory proceedings, procedures for reconsideration and review of the Commission actions; provisions concerning violation notices and forfeiture proceedings; and the environmental processing requirements that, if applicable, must be complied with prior to the initiation of construction.

* * * * *

Part 90 of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—[AMENDED]

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

2. Section 90.5 is amended by revising paragraph (b) to read as follows:

§ 90.5 Other applicable rule parts.

* * * * *

(b) Part 1 of this chapter includes rules of practice and procedure for adjudicatory proceedings including hearing proceedings, rule making proceedings; procedures for reconsideration and review of the Commission actions; provisions concerning violation notices and forfeiture proceedings; and the environmental processing requirements that, if applicable, must be complied with prior to the initiation of construction.

* * * * *

Part 95 of title 47 of the Code of Federal Regulations is amended as follows:

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 95.43 and the section heading is revised to read as follows:

§ 95.43 Environmental considerations.

An application for AMRS system that includes a local station which may have a significant impact upon the environment, as specified in § 1.1307 of this chapter, must be accompanied by an environmental assessment as set forth in § 1.1311 of this Chapter.

§ 95.81 [Removed]

3. Section 95.81 is removed.

4. Section 95.206 is amended by revising paragraph (b) to read as follows:

§ 95.206 (R/C Rule 6) Are there any special restrictions on the location of my R/C stations?

* * * * *

(b) If your R/C station will be constructed on an environmental sensitive site, or will be operated in such a manner as to raise environmental problems, under § 1.1307 of this chapter, you must provide an environmental assessment, as set forth in § 1.1311 of this chapter, and undergo environmental review § 1.1312 of this chapter, before commencement of construction.

5. Section 95.406 is amended by revising paragraph (b) to read as follows:

§ 95.406 (CB Rule 6) Are there any special restrictions on the location of my CB station?

* * * * *

(b) If your C/B station will be constructed on an environmentally sensitive site, or will be operated in such a manner as to raise environmental problems, under § 1.1307 of this chapter, you must provide an environmental assessment, as set forth in § 1.1311 of this chapter, and undergo the environmental review, § 1.1312 of this chapter, before commencement of construction.

Part 97 of title 47 of the Code of Federal Regulations is amended as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority. 48 Stat. 1066, 1082, as amended; 47 U.S.C. 303. Interpret or apply, 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 301–609.

2. Section 97.13 is amended by revising paragraph (a) to read as follows:

§ 97.13 Restrictions on station location.

(a) Before placing an amateur station on land of environmental importance or that is significant in American history, architecture or culture, the licensee may be required to take certain actions prescribed by § 1.1301–1.1319 of the FCC Rules.

* * * * *

Part 99 of title 47 of the Code of Federal Regulations is amended as follows:

PART 47—[AMENDED]

1. The authority citation for part 99 continues to read as follows:

Authority: 48 Stat 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609.

2. Section 99.11 is amended by revising paragraph (h) to read as follows:

§ 99.11 Applications

* * * * *

(h) Each applicant in the Safety and Special Radio Services (1) for modification of station license involving a site height or (2) for a license for a new station must, before commencing construction, supply an environmental assessment, where required under §§ 1.1307 and 1.1311 of this chapter, and must follow the procedures prescribed by subpart 1 part 1 of this chapter (§§ 1.1307 through 1.1319 before commencement of construction unless Commission action authorizing such application is categorically excluded under § 1.1306.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-11304 Filed 5-15-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[Gen. Docket No. 88-387; FCC 90-115]

Environmental Impact Statements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this Further Notice of Proposed Rulemaking to propose that construction by non-dominant, facilities-based common carriers be covered by the same environmental processing rules applicable to other carriers. The proposal seeks to ensure that the Commission is fully meeting its responsibilities under the Federal environmental laws with regard to communications facilities for which pre-construction approval is not required by the Communications Act or the Commission's rules. The proposed rule would amend § 63.07 of the Commission's Rules to require that domestic non-dominant, facilities-based common carriers comply with the environmental processing requirements prior to the construction of facilities that may have a significant environmental effect.

DATES: *Comments are due* June 18, 1990. *Reply comments are due* July 3, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David H. Solomon, Federal Communications Commission, Washington, DC 20554, (202) 632-6990.

SUPPLEMENTARY INFORMATION: The following collection of information contained in these proposed rules has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037. Persons wishing to comment on these information collection should contact Eyvette Flynn, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB Number: None.

Title: Amendment of the Environmental Rules; Amendment of part 63 of the Commission's Rules Relating to Common Carriers Further Notice of Proposed Rulemaking (Further Notice of Proposed Rulemaking in General Docket No. 88-387).

Respondents: Businesses.

Estimated Annual Burden and Frequency of Response: The information collection burdens will involve the identification of sensitive environmental sites or routes and, if applicable, preparation of Environmental Assessments.

4 respondents: 400 hours total annual burden;

100 hours average burden per response

Frequency: On occasion.

Needs and Uses: The information collected by virtue of the proposed rule amendment will enable the Commission to meet its responsibilities to the fullest extent possible under federal environmental laws by considering the environmental consequences of all authorized activities, including those of non-dominant facilities-based common carriers, within its jurisdiction. This is a summary of the Commission's Notice of Proposed Rulemaking, adopted March 29, 1990, FCC 90-115. The full text of this Commission Notice and proposed rule amendments are available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this Notice and the proposed rule amendments may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 22037.

Summary of Further Notice of Proposed Rulemaking

1. In this proceeding, the Commission recently amended 47 CFR 1.1312 to require applicants and licensees to submit Environmental Assessments and undergo environmental review prior to the commencement of construction of facilities that do not require pre-construction authorization but that may have a significant environmental impact. In comments filed in this proceeding, American Telephone and Telegraph (AT&T) proposed that § 1.1312 should be construed to govern non-dominant common carriers' construction of non-radio facilities. This Further Notice of Proposed Rulemaking responds to AT&T's proposal and proposes to amend § 63.07 of the Commission's Rules to require that domestic non-dominant, facilities-based common carriers comply with the environmental processing requirements prior to the construction of facilities that may have a significant environmental effect.

2. Additionally, the Commission is proposing to amend § 1.1306 of its environmental rules, 47 CFR 1.1306, to categorically exclude from its environmental processing requirements the installation of additional domestic cable along existing routes. The Commission tentatively concludes that this category of facilities will not have a significant impact upon the environment.

3. This *Notice of Proposed Rulemaking* is issued under the authority contained in sections 4(i) and 303(r) of the Communications Act, as amended, 47 U.S.C. sections 154(i), 303(r); and section 4332 of the National Environmental Policy Act, 42 U.S.C. 4332; section 470-f of the National Historic Preservation Act, 16 U.S.C. 470-f and section 1536 of the Endangered Species Act, 16 U.S.C. 1536.

4. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendments are promulgated there will not be a significant economic impact on a substantial number of "small business" entities, as defined by section 601(3) of the Regulatory Flexibility Act. Carriers providing interstate transmission lines for telecommunications services affected by the proposed rule amendments generally are large corporations or affiliates of such corporations.

List of Subjects

47 CFR Part 1

Environmental impact statements.

47 CFR Part 63

Radio.

Rule Changes

Part 1 and part 63 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1—[AMENDED]

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

Section 1.1306 is amended by revising Note 1 to read as follows:

§ 1.1306 Actions which are categorically excluded from environmental processing.

* * * * *

Note 1: The provisions of § 1.1307(a) requiring the preparation of EAs do not

encompass the mounting of antenna(s) on an existing building or antenna tower unless § 1.1307(a)(4) is applicable. Such antennas are subject to § 1.1307(b) and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b). The provisions of §§ 1.1307 (a) and (b) do not encompass the installation of additional wire or cable over existing routes. The use of existing buildings, towers or routes is an environmentally desirable alternative to the construction of new facilities and is encouraged.

* * * * *

PART 63—[AMENDED]

The authority citation for part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214.

Section 63.07 is amended by adding a new paragraph (c) to read as follows:

§ 63.07 Special procedures for non-dominant domestic common carriers.

* * * * *

(c) Non-dominant, facilities-based domestic common carriers subject to this section shall not engage in any construction or extension of lines that may have a significant effect on the environment as defined in § 1.1307 without prior compliance with the Commission's environmental rules. *See* § 1.1312.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-11303 Filed 5-15-90; 8:45 am]

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federal register

Wednesday
May 16, 1990

Part IV

Department of Labor

Employment and Training Administration

Federal State Unemployment Compensation Program: State Unemployment Fund Cash Management Program; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Federal State Unemployment Compensation Program: State Unemployment Fund Cash Management Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice and opportunity to comment on a proposed program to improve State unemployment fund cash management.

SUMMARY: The Employment and Training Administration (ETA) is proposing a revised State unemployment fund cash management program (hereinafter referred to as "program"), intended to promote effective State management of unemployment funds. This notice addresses only State unemployment funds, not Title III administrative grant funds. The program incorporates proven cash management technology and affords States maximum flexibility to design and administer individual cash management programs within broad Federal requirements. The program will also help carry out the Secretary's responsibilities for oversight of the Federal-State unemployment compensation program and the withdrawal and deposit requirements of the Social Security Act (SSA) and the Federal Unemployment Tax Act (FUTA).

This notice explains the requirements of the program and requests comments from all interested parties. The notice also contains goals for the various State cash management program components. These goals will form the basis for Federal reviews and technical assistance on State cash management practices and procedures in order to promote quality program operations. Comments on these elements are also encouraged.

DATES: Comments must be received in the Department of Labor by the close of business on June 15, 1990.

ADDRESSES: Submit comments to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., room S-4231, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James Herbert, Unemployment Insurance Program Specialist, Division of Program Development and Implementation, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., room C-4514, Washington, DC 20210. Telephone number (202) 535-0216 (this is not a toll free number).

SUPPLEMENTARY INFORMATION

A. Background

Unemployment benefits are primarily financed by State taxes (contributions) on employer payrolls. States deposit unemployment taxes collected from employers into clearing accounts in commercial banks which then transfer them electronically to individual State accounts in the Unemployment Trust Fund (UTF) in the U.S. Treasury. State UTF balances not needed to pay benefits are invested by the Treasury primarily in U.S. Government securities, and earnings from their investment are deposited in the individual State accounts in the UTF. Funds requisitioned from the UTF to pay benefits are transferred electronically to State benefit payment accounts, generally in commercial banks, to fund benefit payments.

Section 303(a)(4) of the Social Security Act (SSA) and section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) require the immediate payment of all money received in the unemployment fund of a State to the Secretary of the Treasury to the credit of the UTF established by section 904 of SSA. Section 904(b) of SSA requires the Secretary of Treasury to invest the portion of the UTF not required to meet current withdrawals. Section 303(a)(5) of SSA and section 3304(a)(4) of FUTA require that all money withdrawn from the unemployment fund of a State be used for the payment of unemployment compensation exclusive of expenses of administration. These statutory provisions constitute the "immediate deposit" and "limited withdrawal" requirements, support the Department's position prohibiting State investment of unemployment funds, and form the basis for the Department's oversight of State cash management performance. The Department currently uses three performance measures to determine, in part, State compliance with these statutory requirements. These measures, called desired levels of achievement (DLAs), are: The timeliness of deposit of all receipts into State clearing accounts in commercial banks, the timeliness of transfer of such funds from clearing accounts to State accounts in the UTF, and the amount of funds withdrawn from the UTF for benefit payments compared to actual payment requirements.

Since these DLAs were instituted in 1981, changes in banking legislation and advances in cash management technology have compelled the Department to re-evaluate the entire Federal-State UI cash management and banking system, including the development of new performance measures that are more responsive to the current cash management environment and realistic in terms of on-going State unemployment fund cash management and banking operations.

ETA recognizes that the cash management environment has changed dramatically in the 1980s and will continue to change in the 1990s, specifically: Implementation of the Depository Institution Deregulation and Monetary Control Act of 1980 has increased competition among banks but generally increased consumer prices for bank services; improvements in technology have allowed for quicker movement of money because checks are cleared more rapidly; electronic payments have proliferated, increasing timeliness of funds flows, availability of funds, and decreasing float; and the Federal Reserve FEDWIRE System provides the capability for same day delivery of funds requisitioned from the UTF and immediate availability of Federal funds.

The proposed Program has evolved through several phases. In 1982-83 ETA recognized that State cash management systems were frequently inefficient, resulting in lost interest in their UTF accounts, lost value for unemployment funds through excessive float and dormant bank balances, and inaccurate cash management reports. ETA also recognized that its oversight capabilities had not kept pace with evolving technology and that little technical assistance in cash management had been provided States.

ETA commissioned a study to address these issues and to review the entire State/Federal unemployment fund cash management system and recommend improvements. After receipt of the contractor's final report, the Unemployment Insurance Service (UIS) of ETA conducted extensive internal analyses of the viability of the recommendations and their potential impact on State unemployment fund cash management practices and procedures. UIS also distributed the report to States and other interested parties and sponsored three briefing sessions by the contractor to provide an opportunity for discussion and

comment. In addition, input on key components of the proposed program, especially standard bank services, performance measurement, and reports, was solicited and received from the U.S. Treasury Department (Financial Management Service), ETA Regional Offices (Field Memorandum No. 97-88), and the States (Unemployment Insurance Program Letter No. 29-89). Revised program components resulting from Federal and contractor analysis and State recommendations concerning standard bank services, performance measurements, and reporting requirements have been combined to create the program presented for comment in this notice.

B. Major Design Directions

The program was designed to maintain the safety of unemployment funds and the integrity of the cash management process while maximizing the value of unemployment funds (whether in the UTF or in State clearing and benefit payment accounts). Additional design considerations and objectives were to provide flexibility for State policies and practices within the framework of modern cash management technology, and to concentrate Federal oversight efforts on cash management components essential to the Department's responsibility for assuring the security and integrity of unemployment funds.

The program is based on generally accepted and proven cash management principles which are combined with statutory deposit and withdrawal requirements to form the basic requirements of the program. It recognizes the varied State cash management environments, providing flexibility within a unified design. State flexibility includes negotiating banking arrangements, selecting bank services, and paying for them. ETA oversight concentrates on expedited deposit of employer contributions, State management of unemployment fund account balances, periodic reviews of cash management operations, and providing technical assistance to States in bank account administration and other cash management functions.

C. Comments

The program is presented for information and comment of all parties interested in State unemployment fund cash management. Comments on the design and contents of the State unemployment fund cash management program are encouraged. However, specific comments addressing ETA proposals on the following areas, explained in this notice, are requested:

1. Use of compensating balances for standard bank services:
   a. Definitions—standard bank services; non-standard bank services;
   b. Inclusions/exclusions to list;
   c. Lockbox provisions.
2. Accounting and tracking unemployment funds flows:
   a. Separate clearing account for incoming funds;
   b. Separate benefit payment account for outgoing funds.
3. Revised performance measures:
   a. Deposit measure;
   b. Zero excess balances measure.
4. Record keeping and reporting requirements:
   a. Use of sample to obtain data for deposit measure;
   b. New report, modeled on bank account analysis, for zero excess balance measure.
5. State cash management program expectations/basis for oversight:
   a. Banking systems;
   b. Bank procurement;
   c. Collection systems;
   d. Disbursement systems;
   e. Fund transfer systems;
   f. Cash position management systems.
6. Focus and direction of ETA oversight.
7. Required/desired technical assistance from ETA.

D. Next Steps in Implementation

After comments are received and assessed by ETA, a final **Federal Register** notice, containing a Unemployment Insurance Program Letter on the official cash management program elements and requirements, will be published in July, 1990. ETA is also planning to conduct technical training sessions on the final program for State cash management staff, in August 1990, prior to institution of new performance measures and reports. ETA Regional Office and National Office staff will be available to provide technical assistance during the implementation process.

E. State Unemployment Fund Cash Management Program

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Appendix A—Standard Bank Services
Appendix B—Measuring Performance Against Zero Excess Balance Criterion

I. Key Elements

The dual goals of cash management are to expedite deposits and defer disbursements until needed to redeem checks or warrants. From a UI standpoint, that means accepting and depositing receipts into clearing accounts immediately, transferring funds in clearing accounts to the UTF as soon as possible, and withdrawing funds from the UTF only when immediately needed to redeem benefit checks or warrants. However, even the most efficient cash management systems will still experience residual funds in bank accounts that cannot be moved timely. Effective unemployment fund cash management ensures that cash balances provide value as compensating balances.

The following section spells out the Department's requirements in the revised cash management program.

A. Prohibition of State Investment

In accordance with SSA, sections 303(a) (4) and (5) and 904(b), and FUTA sections 3304(a) (3) and (4), only the Secretary of Treasury may invest unemployment fund moneys. These statutory provisions have historically been interpreted as prohibiting direct investment of unemployment funds by a State and limiting the use of State funds in the UTF to benefit payments (with certain exceptions not pertinent to this discussion). Furthermore, State unemployment funds may not serve as compensating balance requirements for Federal or other State funds.

States may utilize interest-bearing demand deposit bank accounts, e.g., Negotiable Order of Withdrawal (NOW)

accounts. However, all interest earned on unemployment funds in such accounts must be returned, without reduction for bank service costs or any other cost, to the State account in the UTF.

B. Use of Compensating Balances for Standard Bank Services

State unemployment funds may be used as compensating balances, but only in the amount necessary to offset commercial bank charges for standard bank services relating exclusively to the unemployment funds accounts. Compensating balances of State unemployment funds may not be used to offset commercial bank charges, standard or otherwise, relating to Federal or other State funds. However, Federal funds maintained in benefit payment accounts may be supported by compensating balances consisting of Federal funds, on the same terms and conditions as compensating balances of State unemployment funds.

Standard bank services are stand-alone, non-credit related services provided by commercial banks (such as account maintenance, funds availability, and electronic transfers), which are considered necessary and/or customary for sustaining a commercial bank account. Earnings credit derived from compensating balances of unemployment funds may only be used to offset the cost of standard bank services relating to the unemployment funds accounts. Services performed by State Treasurers which are similar or identical to certain standard bank services are not included in this definition.

Non-standard bank services are bank services not necessary or customary for sustaining a commercial bank account or those services that are not necessarily banking functions but which a State elects to have a bank provide. Compensating balances of unemployment funds may not be utilized to pay for non-standard bank services. States may elect to utilize non-standard bank services, e.g., wage record keypunching in a lockbox arrangement; however, Title III administrative grants or other State funds must be used to pay bank charges for non-standard services. Any bank services paid with Title III grant funds must be determined by the Department to be necessary for proper and efficient administration (SSA section 303(a)(1) and 303(a)(8)).

Appendix A of this notice provides a listing of bank services currently utilized by States which meet the definition of standard bank service and for which compensating balances of unemployment funds may be used to offset unemployment fund bank service costs. Lockbox services will be considered standard services only when supporting feasibility studies for alternatives to the lockbox are conducted and documented which substantiate the cost-benefit of such services. Such studies must be no more than three years old. States that have conducted feasibility studies within the last three years will be considered to have met this requirement. In addition, use of the Federal lockbox system, if one is located in the State, must be considered in all feasibility studies.

C. Accounting and Tracking Unemployment Fund Flows

To comply with the legal requirements for the deposit of unemployment funds and withdrawal of unemployment funds in SSA and FUTA, all unemployment funds must be identifiable at all times, separately and completely accounted for, so that unemployment funds and the associated types and volumes of transactions can be tracked as they flow through the State bank accounts. To accomplish this, incoming funds must be maintained in separate clearing accounts from outgoing funds (benefit payment accounts), except that States may pay refunds of tax overpayments out of their clearing accounts as provided in SSA section 303(a)(4) and FUTA section 3304(a)(3). The accounts, however, can reside at the same bank or at different banks. The crux of this requirement is the longstanding interpretation of the Federal requirements as treating receipts for the State unemployment fund as becoming a part of the fund at the instant of receipt by the State, or by an agent of the State, and as remaining a part of the fund until actually paid out of the fund in cash or redemption of a check or warrant drawn on the fund.

Incoming funds as used here means all moneys received by a State for the State's unemployment fund, from any source other than the UTF, including sums erroneously paid into the unemployment fund, all tax collections and reimbursements in lieu of contributions received from employers, reimbursements from transferring States for unemployment benefit payments made under the Interstate Arrangement for Combining Employment and Wages, penalty and interest, and benefit overpayment recoveries. Penalty and interest may be excluded only if the State UI law provides for the payment of such collections to another State fund. Separate accounting for funds received must permit tracking of all funds from moment of receipt by a State, or an agent of the State, through time of deposit in the State's account of the UTF.

Outgoing funds include the payment of unemployment compensation, exclusive of the costs of administration, and refunds, and other exceptions permissible under sections 303(a)(5) of SSA and 3304(a)(4) of FUTA. Separate accounting for such funds must permit tracking of a State's unemployment funds from time of receipt by the State (or an agent of the State) through time of redemption of a check or warrant.

If penalty and interest collections are deposited in the clearing account, they are subject to the accounting and tracking provisions of this section. Similarly, Federal funds drawn down from the Federal Employees Compensation Account (FECA) for the payment of unemployment compensation under the Unemployment Compensation for Federal Employees (UCFE) program and Unemployment Compensation for Ex-Servicemembers (UCX) program are subject to the accounting and tracking provisions of this section if such payments are made from the regular benefit payment account of the State.

D. Fund Transfer Mechanisms

States must use the fund transfer mechanisms designated by the Department, the U.S. Treasury, and the Federal Reserve System (currently the State Unemployment Data System (SUDS) and FEDWIRE).

E. Performance Measures

Expediting the deposit of all money received for the unemployment fund of a State, including employer contributions, into the State's account in the UTF and limiting the daily withdrawal of funds to the amount necessary for benefit payments are major goals of effective UTF cash management. Achievement of these goals is integral to State compliance with the immediate deposit and limited withdrawal requirements of SSA and FUTA, the process of minimizing dormant funds, and maximizing earnings for the States' UTF accounts (and FECA) through investment by the Secretary of Treasury.

Measures. Quantitative measurement of State cash management performance will be performed for:

1. Timeliness of deposits in State clearing accounts, and

2. Excess balances (transfer/withdrawal).

Compliance Criteria. A State will be deemed to have substantially complied with the Federal immediate deposit and limited withdrawal requirements if it:

1. Deposits 95% of the total dollar amount of all money received for the unemployment fund, (including funds received from other States) by the State or by an agent of the State (e.g., a lockbox), into the clearing account by COB the business day after receipt by the State or agent of the State, and deposits all remaining receipts within two business days after receipt, and

2. Has a zero excess balance of unemployment funds over the level necessary for, and used by the State in, compensating balances with commercial banks (clearing and benefit payment accounts) to offset the cost of standard bank services over a one calendar year period. A State will be determined to have a zero excess balance if the average actual monthly compensating balance is +/− 1.0% of the average required monthly compensating balance for the calendar year for clearing and benefit payment accounts combined. Overcompensation in one account may be offset by undercompensation in another account for performance measurement purposes only (see appendix B for an example of performance measure computation).

State deposit performance will be evaluated by review of a sample of deposit transactions in the same manner as the current DLA. State zero excess balance performance will be evaluated on a calendar year basis from information provided on required Federal reports. Each State's performance relative to these performance criteria will be published in the annual Quality Appraisal report. States not meeting the performance criteria will be required to develop and implement corrective action plans as part of their annual Program Budget Plan (PBP) submittal.

Failure of a State to meet the desired level of cash management performance set forth above, or to show satisfactory improvement after having submitted a cash management performance corrective action plan, could result in a determination by the Secretary of Labor under section 303(b)(2) of the SSA and section 3304(c) of the FUTA of failure of a State to conform and/or comply substantially with the immediate deposit and limited withdrawal requirements.

These performance measures replace current DLAs. They are not Secretary of Labor standards.

F. Record Keeping/Reporting Requirements

Each State agency is required under the immediate deposit and limited withdrawal standards, and sections 303(a)(1) and 303(a)(6) of SSA, to establish and maintain records pertaining to the cash management of unemployment funds, and to make all such records available for inspection, examination, and audit by such Federal officials or employees as the Department may designate or as may be required by law. Each State agency shall also make such reports to the Department as the Department may require and comply with Departmental requests for information to assure the correctness and verification of such reports.

Records maintained must provide sufficient detail to track and verify the flow of all incoming unemployment funds (deposits) and outgoing unemployment funds (disbursements) and associated types and volumes of transactions through State bank accounts, including those controlled and maintained by elected officials of the State, from the date of receipt through the date of redemption of State benefit checks or warrants. If Federal or other State funds are commingled with State unemployment funds, records maintained must provide sufficient detail to distinguish one from the other.

Monthly state excess balance performance information will be provided by means of new Federally required cash management reports which, upon OMB approval, will replace the current ETA 8413 and 8414 reports. The new reports are based on bank-generated Account Analysis format and include the following individual data elements:

1. Average daily ledger balance,
2. Average daily float,
3. Average daily collected balance,
4. Reserve requirement,
5. Average daily available balance,
6. Earnings allowance on available balance,
7. Comprehensive list of bank services provided,
8. For each service:
   a. Volume,
   b. Unit price,
   c. Total price, and
   d. Available balance equivalent,
9. Total bank charges,
10. Total available balance equivalent, and
11. Net account excess/deficit for month.

A separate report identifying State unemployment funds is required for each clearing and benefit payment account maintained by a State in commercial banks and for all unemployment funds contained in commingled State accounts. Separate reports for each and every State Treasurer account containing unemployment funds, breaking out information for unemployment funds in those accounts, is also required. Such reports also must separately identify State unemployment funds and Federal funds.

II. State Program Components

In order to maximize overall efficiency of UTF cash management, various generally accepted, proven cash management techniques and procedures can be administratively implemented by States.

The preceding section discussed the Federal requirements for State cash management. This section describes cash management goals (and, as appropriate, requirements identified in preceding section) for the various components of State cash management programs which can be used by States in developing or assessing their cash management procedures and techniques. Effective cash management and effective State cash management programs are not static, fixed entities. The goals provided in this section are intended to provide a framework for the on-going improvement of State cash management directed toward a balanced, cost-effective mix of techniques for transferring and tracking unemployment funds (and FECA funds) through the banking and UTF system. These goals will be used by Federal staff in program reviews and technical assistance efforts.

A. State Cash Management Banking Systems

A State unemployment fund cash management banking system is composed of bank account structures and cash management policies and techniques which support the receipts collection process, disbursement of benefit payments and refunds, and transfers to and from the UTF.

These structures, policies, and techniques may vary from State to State; however, there are standard goals common to all systems. Each system should:

1. Encourage an efficient flow of funds through the banking system as well as to and from the UTF with physically separate clearing and benefit payment accounts;

2. Provide a definition and array of bank services required in a distinctive State environment;

3. Provide timely and accurate record keeping and reporting;

4. Meet cost-benefit criteria;

5. Meet State procurement criteria;

6. Ensure ease of monitoring and auditing the system; and

7. Ensure ease for both State and Federal review and reporting requirements, as outlined in this notice.

1. *Bank Account Structures.* Bank account structures are comprised of one or more bank accounts in which State unemployment funds are deposited. The accounts are identified as clearing accounts and benefit payment accounts. The clearing account is generally used for collection of tax contributions, while the benefit payment account is used for the payment of claims. Those States which use commingled State accounts deposit receipts and pay benefits out of accounts which are also used for transactions other than UI transactions.

States have considerable discretion in the establishment of their bank account structures. There is no requirement for the establishment of separate bank accounts for State unemployment funds (from Federal or other State funds). However, as previously indicated, all State unemployment funds must be identifiable at all times, separately and completely accounted for, so that all types and volumes of transactions can be tracked as they flow through State bank accounts. Further, State unemployment funds may not serve as compensating balances for Federal or other State funds. Finally, clearing accounts must be separate from benefit payment accounts although the accounts can reside at the same or different banks.

2. *Standard Bank Services.* States are permitted to select those bank services considered to be necessary for the efficient administration of UI bank accounts. The Department does not mandate, encourage, or recommend that certain services be required for UI bank accounts. That has been, and will remain, a State decision.

The Department does require, however, that only standard bank services relating to State unemployment funds may be funded with compensating balances of State unemployment funds. Any other bank services must be paid for from administrative grant funds or other State funds, and if paid from administrative grant funds, they must be determined by the Department to be necessary for proper and efficient administration (SSA sections 303(a)(1) and 303(a)(8)).

Appendix A provides a listing of bank services currently used by States which meet the Department's definition of standard bank services and for which unemployment funds may be used as compensating balances to offset bank service charges relating to unemployment funds.

3. *Bank Procurement.* Bank procurement is the process used to obtain State unemployment fund bank services. The procurement process should obtain the highest quality service at a reasonable cost and comply with State procurement law. Compensation for bank services depends on various factors, including but not limited to, the cost of bank services used, the bank's earnings credit rate, reserve requirement, pricing formula, and State procurement requirements. States should conduct preliminary discussions with banks concerning pricing terms, compare bank fees with other States within the region and Federal Reserve District, and with bank fees published in price studies.

4. *Bank Compensation.* When a State has identified the bank services it needs and has included such services in its banking agreement, the bank must be compensated for providing them in one of three ways: direct payment of fees; maintenance of compensating balances; or a combination of fees and compensating balances.

The method used to compensate banks for services provided is exclusively a State decision. The only restriction is that compensating balances consisting of State unemployment funds may be used only to offset commercial bank charges for standard bank services solely for the State unemployment fund. To the extent that Federal funds from the FECA are included in the benefit payment account, commercial bank charges for standard bank services must be separately funded in one of the three ways mentioned above.

As noted in Section I.E. above, excess balances, i.e., available funds in State unemployment fund accounts above the amount needed to offset commercial bank charges for standard bank services, should approach zero over a one calendar year period. State efficiency in cash management and compliance with the immediate deposit and limited withdrawal requirements will be evaluated, in part, by determining the extent to which a State maintains only the amount of compensating balances required to offset bank service charges over a one calendar year period.

Month-to-month actual compensating balances may be greater than or less than required compensating balances during the one-year period. However, such balances should be regularly adjusted by States during the measurement period.

B. State Cash Management Procedures.

This section discusses certain cash management functions inherent to all collection and disbursement operations:

1. Collection processing and deposit;
2. Disbursements and disbursement funding;
3. Fund transfers, and
4. Forecasting benefit payment clearings and cash position management.

To enhance the efficiency of these functions, State cash management procedures should:

1. Provide an effective and consistent methodology for meeting the zero excess balance performance measure;
2. Provide continuity of UI cash management operations throughout the State;
3. Allow for the direct control of UI funds by the SESA, or control in conjunction with a State Treasurer; and
4. Satisfy review and audit requirements through the implementation of documented, internally standardized cash management procedures.

1. *Collection Systems (Processing and Deposit).* Collection systems are designed to accept moneys for the State unemployment fund (e.g., employer contributions and miscellaneous other receipts such as reimbursable employer deposits). These funds must be deposited into clearing accounts.

The program accommodates the two types of collection techniques: In-house processing (State receives, processes mail and deposits checks) and lockbox processing (bank receives, processes, and deposits checks). There are benefits and drawbacks to each and ETA is not recommending one over the other. Each State is responsible for determining which method or combination of methods is more appropriate to its unique cash management environment.

Use of State lockbox arrangements must be supported by feasibility studies, including cost/benefit and break-even analyses, before compensating balances may be utilized to offset the cost of the service. These studies must examine not only conventional utilization of lockbox services but also partial utilization (such as for large employer contributions only). In addition, use of the Federal lockbox system, if one is located in the State, must be examined and included in the feasibility studies.

Compensating balances may not be used to offset the cost of non-standard bank services provided as part of a lockbox operation. Keypunching of detailed quarterly wage information is the most common non-standard service offered by lockbox banks. If a State elects to have a lockbox bank perform a non-standard service, administrative funds (or other State funds) rather than

compensating balances must be used to compensate the lockbox bank.

2. *Disbursement Systems and Disbursement Techniques for Benefit Payments.* Disbursement systems are the mechanisms used to pay unemployment benefits.

All State UI disbursement systems must:

a. Comply with Federal statutory requirements (limited withdrawal and prohibition of investment) and State legal requirements;

b. Provide timely and accurate information to ease Department and State oversight functions;

c. Minimize the time elapsing between the time funds are transferred from the State's account in the UTF and the time of check or warrant redemption;

d. Minimize the level of ledger and available bank balances in the benefit payment acount;

e. Permit control of benefit payment account funding within the SESA;

f. Provide accurate and timely information on check clearings and the level of ledger and available bank balances; and,

g. Maintain audit trails and databases required for audit checks.

There are three disbursement techniques for the benefit payment account:

a. *Checks paid:* UTF funds are transferred to States the day checks or warrants actually arrive at the bank for presentment;

b. *Delay of draw:* The State requisitions UTF funds based on a clearance pattern for checks or warrants that are anticipated to be presented the next day;

c. *Checks issued:* UTF funds transferred to States to cover benefit checks or warrants issued that day.

States may utilize any disbursement technique compatible with the State's law, policy, or procedural requirements as long as utilization of that funding technique does not prohibit achievement of the cash management performance criterion.

3. *Fund Transfer Systems.* Fund transfer systems are the procedures and techniques related to the movement of funds from State clearing accounts to the UTF and from the UTF to State benefit payment accounts.

All effective fund transfer systems:

a. Provide the capability to transfer funds from State clearing accounts to the UTF in a timely manner, consistent with the immediate deposit requirement;

b. Provide the capability to transfer funds from the UTF to State benefit payment accounts in a timely manner, consistent with the limited withdrawal requirement;

c. Ensure that funds drawn from or deposited into the UTF are accounted for in an accurate and timely manner;

d. Ensure that accurate information on transfers is available to the States and UIS in a timely manner in order to support management of funds, verification, and reconciliation functions performed by States, as well as oversight functions performed by the Department; and

e. Ease audit requirements and operations; and

f. Apply to FECA funds as well as State unemployment funds.

All States must use the Treasury transfer system for their drawdown requests. That system currently includes SUDS to make daily, 24-hour on-line drawdown requests from Treasury and FEDWIRE to make same-day wire transfers of funds requested through SUDS.

4. *Cash Position Management Systems.* Cash position management systems are the procedures and techniques used to establish and control clearing and benefit payment account balances.

All effective cash position management systems:

a. Establish and maintain a benefit clearings forecast capability;

b. Provide for development of daily cash position to control the movement of funds and the level of compensating balances maintained;

c. Ensure the regular review of bank account analyses, statements, and other reports for appropriateness of pricing, volumes, credits, debits, and balance information; and

d. Provide for the periodic review of accuracy of benefit clearings forecasting.

III. Federal Oversight Program

The Department's oversight of the cash management process includes quantitative annual measurement of State performance (in deposit and zero excess balance criteria), review and monitoring of required reports, periodic program reviews by ETA Regional or National Office staff (banking agreements, standard bank services, etc.), and provision of technical assistance and training to State staff responsible for UI cash management.

A. Quantitative Measurement of State Performance

As previously stated, quantitative measurement of State cash management performance will be performed for:

1. Timeliness of deposit of receipts (moneys for the State unemployment fund) into State clearing accounts.

2. Excess balances (transfer/withdrawal).

Annually, State performance in meeting the cash management performance criteria will be assessed and the results of this assessment published in the Quality Appraisal report on State performance. States not meeting the performance criteria will be required to develop and implement corrective action plans for the purpose of meeting established performance criteria as part of their annual Program Budget Plan (PBP) submittal.

B. Record Keeping/Reporting

Section I.F. describes requirements for States to establish and maintain cash management records and make them available to the Department for inspection, examination, and audit.

Departmental monitors may periodically review those records for completeness, accuracy, and support of audit trails, in conjunction with the oversight program.

Examples of reports and records are accounting ledgers, bank statements, account analyses, other State bank reports, lockbox feasibility studies, and any other reports required by the Department under section 303(a)(6) of SSA.

C. Monitoring

The efficiency of State cash management practices and procedures will be monitored regularly by the National and Regional Offices of the Employment and Training Administration. The following key areas will be included in the monitoring and oversight activities associated with the program:

a. Procurement process: solicitation, negotiation, execution of banking agreements.

b. Standard bank services: compliance with definition and list.

c. Levels of compensating balances: monthly review of reports to assess progress toward the goal of zero excess balance over measurement period.

d. Cash management activities and procedures for collections, disbursement, UTF funds transfer, and UTF cash position management.

a. *Procurement process.* State banking arrangements will be reviewed by ETA staff annually (or to coincide with State banking procurement cycles) to determine the extent to which necessary standard banking services are being procured, at reasonable prices, and whether such arrangements contain provisions and stipulations essential to efficient banking service to the State. These provisions may include:

1. Method of bank compensation;

2. Bank assignment of availability of funds;

3. Same day credit and immediate availability of funds transferred via the FEDWIRE system;

4. Computation of bank compensation position;

5. Carry forward of monthly credit for excess compensation.

b. *Standard bank services used.* Department oversight will consist of reviewing requests for proposal for banking services, State bank agreements, required monthly cash management reports, and conducting periodic on-site reviews of State banking administration to determine the extent to which necessary standard bank services are being utilized by the States and are included in compensating balance agreements.

c. *Levels of compensating balances.* Compensation for bank services depends on a number of factors including bank services used, transaction volume, the earnings credit rate, reserve requirements, and pricing formula. Once all elements of compensation are defined, the level of compensating balances required will vary depending on type and volume of transactions and changes in the earnings credit rate and reserve requirement. Selected data items reported on the required cash management reports for clearing and benefit payment accounts can be reviewed, and the results used to guide State management of compensating balances during the year, to achieve the zero excess balance requirement and to prevent the build up of excess balances.

The levels of compensating balances will be reviewed monthly to ensure that State daily balance management minimizes the difference between actual and required compensating balances and the State meets the zero excess balance performance criterion. If monthly balance management indicates the State is experiencing difficulty, and may not meet performance criteria, the Department will provide technical assistance to assist the State meet the criteria.

d. *Cash management activities and procedures.* Federal staff periodically will review State cash management activities and procedures to assist States in improving their cash management programs. The expectations listed in Section II, State Program Components, identify the benchmarks against which State activities and procedures will be assessed in these reviews.

D. Training and Technical Assistance

ETA is planning a comprehensive schedule of technical assistance for States in the implementation and operation of the program.

Technical assistance has already begun during development of the program. States have been provided copies of the contractor's final report, which includes recommendations and guidance to improve State cash management, have attended briefings on contractor recommendations, and have attended Treasury training in SUDS.

The next steps in the technical assistance program are:

1. Formal training sessions for all States. These sessions, planned for the summer of 1990, will provide participants skills and knowledge in the following areas:

a. General cash management techniques;

b. Banking structures to support those techniques: negotiating and executing bank agreements;

c. Applications of those techniques to State UI cash management operations;

d. Meeting performance measures, completing reports;

e. Departmental oversight functions and responsibilities.

2. Issuance of technical assistance guides to assist States in program implementation and operation, e.g., bank procurement, daily cash management procedures, etc.

3. Limited contractor assistance in program operations and general cash management.

4. On-going technical assistance as needed.

States will be regularly apprised of technical assistance opportunities, and will be consulted in the development of the technical assistance program.

Signed at Washington, DC, May 7, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

Appendix A

Standard Bank Services

Definition: Standard bank services are defined as stand-alone, non-credit related services provided by commercial banks considered necessary/customary for sustaining a commercial bank account.

The general test to determine if a bank service is standard is whether said service must be performed by a bank as opposed to the election by a State to have a bank perform an added administrative function. If a review, audit, or other monitoring activity determines a service to be other than standard, a State would be required to provide justification for using compensating balances to pay for it. If it is determined by the Department that the questioned service is not a standard bank service, the State must use alternative sources of financing—Title III administrative grant funds and/or other State funds to cover the cost of such services.

The following bank services have been determined to meet the foregoing definition of a standard bank service. Although these are common industry terms, some banks use different names to describe these generic bank services. It is important to note that the content of the bank services should be common despite differences in nomenclature.

Some peripheral bank services considered necessary in some States may not be included in the following list. Affected States should comment accordingly, and all such comments will be taken into account.

Account Analysis. A periodic statement from a bank, usually monthly (sometimes quarterly) showing balance information and bank service activity (volumes and pricing). An account analysis typically includes:

- Average book (ledger or gross) balances
- Average float
- Average collected balances
- Federal Reserve Bank reserve requirements
- Earnings credit rate
- Detail of bank service charges

Account Maintenance. The monthly charge for maintaining a demand deposit bank account at a commercial bank. This service normally covers the cost of a single monthly statement mailed to the customer's address of record.

Account Reconciliation. A bank service that either partially or fully prepares the check paid information to be matched against your check issued records. Several levels of service are available, as described below. All service levels require that the checks have serial numbers printed on the lower, left hand portion of the check in the standard magnetic ink (MICR) format.

Paid Only Listing—Throughout the month, the bank captures and stores the paid check serial numbers, amounts and dates paid, to be reported at month-end (or at other specified frequency). The paid information is sorted and provided in serial number order. The paid check printout is forwarded to the customer along with the paid checks and the monthly bank statement. The bank

charges associated with the Paid Only reconcilement plan per account are:

Monthly Maintenance—fixed monthly charge

Monthly Minimum (see Controlled Disbursements)

Per Item—charge for each paid check

Paid and Outstanding Full Reconciliation—The bank is provided with the checks issued information (e.g. serial number, amount and date issued). The bank matches the issued data against the checks paid during the month and produces: (1) A paid check listing, with each paid check matched to the issued check, and (2) an outstanding listing, in check serial order, showing the historical record of all checks issued but not yet paid. These reports accompany the monthly bank statement and physical checks. This service allows aquick reconcilement to your internal records.

Per Account Charges—Similar to above, but usually somewhat higher.

Other optional features of Account Reconciliation:

Sorting—Placing the physical checks into exact numerical sequence.

Per Item charge for sorting

Microfilming—Providing a microfilm of paid checks, in numerical sequence, to facilitate research of any paid check from the film rather than searching the physical checks.

Per Item charge for filming

Microfiche—Providing the paid and outstanding listings on microfiche or card instead of, or in addition to, the printed listing.

Magnetic Tape Output—Providing the paid check data on magnetic tape (serial number, amount, date paid) for input to an internal reconciliation program.

Per Item charge for tape creation

Per tape fixed charge per tape supplied, in addition to per item cost.

Diskette Input/Output—Special charges for accepting issue information or providing paid or outstanding report data on floppy diskettes instead of the standard magnetic tape.

Keytaping Issued Check Records—Bank charge for converting paper records of issued checks into machine readable form on magnetic tape for entry to Full Account Reconciliation. Often an option if a Payables Department cannot create a tape of checks issued.

Per Item charge for keytaping

Analysis Summary. A consolidation of all service and balance activity in all bank accounts at the bank for one customer. For non-check transactions, the bank will prepare and mail debit/credit advices as a written record of the transaction entry.

Automated Clearinghouse (ACH) Items. Large employer tax payments made through automated clearinghouse (magnetic tape) system.

Checks Paid Services. Several charges can appear on an account analysis statement for checks-paid activity. These are: (1) A charge for each check paid by the bank shown as either Checks Paid or Item Posting, (2) a charge for any Stop Payment instruction sent to the issuing bank by either phone, letter or electronic message, and (3) a per check charge if the bank provides optional check retention service, where the bank holds paid checks in their vaults for several months rather than returning them with the statement.

Check Stock. If provided as regular service to bank commercial customers.

Collateralization Cost. Charge for the expense to the bank of maintaining certain securities to act as the safety backup for the operational balances maintained at the bank.

Collection Items. Charges for deposit of checks written on non-U.S. banks.

Controlled Disbursements. An account arrangement which provides early morning notification of checks that will be cleared on that day and which allows for funding of such checks on a same day basis. These accounts can be established as Zero Balance Accounts (ZBAs), funded by a master or concentration account. Charges for controlled disbursement accounts are similar to regular disbursement accounts, but also include additional services for special handling and reporting.

Per Account—A monthly maintenance charge on a per account basis. This charge is normally higher than a regular checking account maintenance charge. Many banks offer a graduated charge scale for maintaining multiple accounts (e.g. the first account is $75.00 and each account thereafter is only $35.00).

Monthly Minimum Charge—A bank may set a minimum monthly charge as a floor. Each month's charge is the higher of: 1) the minimum charge or 2) the total of the account maintenance and per check charges.

Checks Paid—The per item charge for processing checks drawn against the account.

Stop Payments—The charge for issuing a stop payment request on a specific check or range of checks that the bank has been instructed not to pay.

Daily Telephone Call—Telephone notification of the daily amount of checks presented and paid against the disbursement account. May be a fixed monthly charge or a per call charge.

Terminal Notification—Paid Check Notification via a PC or time sharing terminal instead of a telephone call. The bank posts the amounts to a central computer file, which is accessed via a dial-up terminal or PC/modem combination.

Courier, Armored Car, and Messenger Service. Self-explanatory.

Deposit Services. There are various services associated with the depositing of checks to a demand deposit account, they are:

Deposit Ticket—Charge for posting a single deposit ticket to the account. The deposit ticket can be prepared for a single check, or for multiple checks, and cash.

Deposit Items—There is a charge for processing each deposited check that varies according to the destination where the check is to be paid and whether the check amount is recorded on the check in magnetic ink characters (see encoded checks below).

An Encoded Check has the check amount printed on the lower right portion of the check in magnetic ink using the bank MICR font characters and is read by the bank's computer during processing. An Unencoded Check does not have the check amount recorded on the check when deposited and requires the bank to encode the check amount before it can be processed. Encoded checks cost less to process than Unencoded checks.

In order for deposited checks to be collected in an efficient and timely manner they are categorized as one of the following:

On Us Check—An item payable at the bank of deposit.

Local Clearing House Check—An item payable at another bank in the same city.

In-District Check—Payable at another bank in the same geographic region or Federal Reserve District.

Out-of District Check—Payable at a bank not in the local region or Federal Reserve District.

FDIC Expense. Pass through costs charged by a bank to cover the FDIC assessment charges. These charges are based on the level of collected bank balances maintained in a demand deposit account.

Information Reporting-Terminal Initiated. Computer systems that provide balance and transaction reports on a previous and same day basis. The balance and transaction information can be accessed via a terminal, a personal computer (microcomputer) or transmitted directly from the bank's computer to the customer's computer.

The following categories of information are available:

Balances only—Information regarding the balances in the account. Typically the customer can view the ledger balance, closing available (collected) balance and the opening available (collected) balance.

Details—Information on all transactions processed through a customer's account. In addition to the balance information outlined above, the customer can view individual debits and credits, and descriptive information for each transaction.

Checks cleared—This report enables the customer to receive check number, dollar amount, and date paid information on all checks that have been paid during a specified period. The checks paid information reported is usually from the last statement cycle to the present.

Lockbox—Enables a customer to access lockbox deposit information (i.e., deposit amount and the corresponding availability of the lockbox deposit).

Timesharing costs—Since most of the balance reporting services are provided via timeshare systems (Telenet, Tymenet, etc.), some banks will pass on the costs incurred as a result of making the information available to the customer. The components of timesharing costs usually include both connect time and access time (the amount of time the customer is on the system).

Since each bank may have a different way of charging for Balance Reporting Services, the bank's costs should be reviewed at the time of negotiations. For example, almost all banks will charge on a per account/per month basis. Added to this may be per module, per field, etc., charges.

Information Reporting-Telephone Initiated. Allows the customer to access balance transaction information via telephone.

Balances only—Same as above, under "Information Reporting—Terminal Initiated".

Details—Same as above under "Information Reporting—Terminal Initiated". However, detail information is typically not provided by banks because of the time consuming and manual work involved in providing detailed information over the telephone.

Lockbox—Same as above under "Information Reporting—Terminal Initiated".

Bank charges for these services vary due to the bundling of services and should be discussed with the banks.

Insufficient Funds Checks. Items where the paying account did not have enough available funds to cover the full amount of the check being presented for payment. The paying bank will return such items to the deposit bank.

Ledger Balance Overdraft—The total dollar amount of debits posted to the account exceeds the total of the opening balance plus that day's credits to the account, resulting in a negative closing balance. Banks discourage ledger balance overdrafts and will often levy a penalty or interest charge.

Lockbox Services—Considered a standard bank service only if supported by feasibility studies, including cost/benefit and break-even analyses not more than three years old which examine not only conventional utilization of lockbox services but also partial utilization (such as for large employer contributions only). In addition, use of the Federal lockbox system, if one is located in the State, must be examined. (Note that lockbox services may not be provided with respect to Federal funds.)

A bank or third party receives mail at a specified post office box, processes the remittances, and deposits them to a specified bank account. Provided below are the bank services associated with lockbox service.

Wholesale Lockboxes—Are typically characterized as large dollar checks, low volume of items. Usually corporate to corporate or corporate to government type payments.

Retail Lockboxes—Characterized as small dollar checks, large volume of items. Consumer type payments.

Monthly maintenance—Charge imposed by the bank for providing the lockbox service.

Rental—Charge from the post office for the rental of the P.O. box. This charge is passed on to the customer by the bank providing the lockbox service.

Per Item—Charge for processing each check by the lockbox area of the bank.

Sorting—Banks can sort the remittance material based on specific instructions from the customer. For example, a rough sort could be remittances sorted by batch size or batch type. An example of a fine sort could be remittances sorted alphabetically by State.

Photocopy—The bank makes a photocopy of all checks received and processed during the day. This is standard operating procedure for a Wholesale Lockbox but not for a Retail Lockbox.

Return—Checks that are returned unpaid by the drawee bank for various reasons (i.e., insufficient funds, closed account, etc.).

Resubmitted returns—Standing instructions provided to the lockbox bank to redeposit checks that are returned for the first time as Non-Sufficient Funds (NSF).

Documentation—Any documentation received by the lockbox bank (letters, notes, envelopes, etc.) that is returned to the lockbox customer.

Tape transmission—Invoice or payment information can be provided via magnetic tape or CPU to CPU transmission. Transmissions are typically provided for retail lockboxes but can also be supplied to wholesale lockbox customers.

Telephone notification—A request instructing the lockbox bank to provide a daily telephone call with the lockbox deposit amount, the total return item count, or other lockbox related information.

Packaging and Labelling of Paid Checks. Self-explanatory.

Photocopies of Checks and Research. For lost, damaged, or forged items.

Redeposit Items. Checks that have been returned once for NSF against the payee's bank account are re-deposited, generally by the bank, and sent through the collection system a second time.

Rejects. Checks that cannot be read by the bank's high speed computer equipment due to either physical damage or poor print quality in the magnetic ink characters on the bottom of the check. Rejected checks are manually processed by the bank.

Returns. Checks that have been returned by the paying bank as unpaid (closed account, no funds, stop payment, wrong account number, etc.) and debited back to the deposit account.

Statement Services. An additional service provided above the base service of the Account Maintenance, such as a weekly statement or a daily statement.

Wire Transfers. A means to electronically transfer money from account to account, internally within one bank or from one bank to another. The recipient may be another account of the same party or a third party.

Outgoing Manual—A wire transfer moving funds from an account, based upon instructions that are initiated by a phone call, letter to the bank, FAX, or telex. There are two types of transfers—Repetitive and Non-Repetitive. A repetitive transfer is one which is made so frequently that the bank has set up a stored record of the transfer so only summary information regarding the amount and the recipient must be included in the request. All other information for the transfer is extracted from the stored record. For a non-repetitive transfer, all necessary information to complete the transaction must be passed on to the bank as part of the request.

Outgoing Terminal-Initiated—A wire transfer that has been initiated via a PC or communications terminal linked to a bank over a phone line. All necessary information to process the payment has been keyed on the terminal, which can handle both repetitive and non-repetitive transactions. The bank will provide the telephone numbers, instructions and often the computer software to create the transfer request on the terminal or PC. Since the terminal-initiated process is automated, the bank normally charges less than for a manually initiated transfer.

Incoming—A wire transfer that is credited to a bank account. The transfer may be from another account of the same party at the same or different bank, or can be an incoming third-party payment.

FEDWIRE. Electronic funds transfer system for Federal Government disbursements. FEDWIRE funds are immediately available upon receipt.

Same Day Advice—A notification of an incoming wire made the same day that the transfer and funds are received. The notification can be by phone (either local or long distance depending on the relative location of the receiving office and the bank) or can be an electronic advice using a FAX machine or PC terminal system that can connect with the bank.

Drawdown—A reverse debit wire transfer which draws the requested funds from the sending bank and credits them to the receiving bank. This type of wire transfer is initiated at the receiving bank and must be prearranged with the sending bank before the transfer can take place. Drawdowns are always repetitive transactions. The paying bank, under the prearrangement, will charge the paying account, and send the funds for credit to your account at the receiving bank. Drawdowns must normally be initiated early in the day to give all parties enough time to complete the transaction.

Zero Balance Account (ZBA). A set of accounts (master and subsidiary) that are automatically linked to one another for the purpose of maintaining a zero balance in the subsidiary account. At the close of business each night, the subsidiary account balance is automatically set to zero by transferring funds to the master account, if the subsidiary account has a positive balance, or by funding the subsidiary account from the master account, if the subsidiary account balance is negative. For UTF purposes, the State account in the UTF is the master and the State benefit payment account is the subsidiary.

Concentration and Disbursement—Both concentration and disbursement accounts can be set up as subsidiary ZBA accounts, linked to a master balance account. In the banking configuration of a State employment security agency (SESA), the concentration account can be the master account and the disbursement account could be the subsidiary account.

Account Maintenance—ZBA accounts have a special maintenance charge, which can be a fixed maintenance charge each month, plus transaction charges. Charges associated with ZBA's are:

Per Account charge per each ZBA subsidiary account.

Per Transaction charge posted to the account for the transfers, e.g. one debit, one credit for each transfer between the master and subsidiary account, or Per Transfer with one charge covering both sides of the transfer.

Appendix B

Measuring Performance Against Zero Excess Balance Criterion

States will be evaluated in meeting the zero excess balance criterion, within the acceptable +/− 1.0% tolerance for clearing and benefit payment accounts combined, for the period January through December. Performance evaluation will be completed after receipt of December cash management reports, due the tenth working day of January, and will be published annually in the ETA Quality Appraisal report. The publication will identify each State's percent deviation from the criterion using the formula:

$$\frac{R-A}{R}$$

Where:

R = Average *required* compensating balance for clearing and benefit payment accounts combined; and,

A = Average *actual* compensating balance for clearing and benefit payment accounts combined.

States will be ranked in order of least to greatest deviation and States meeting the criterion (+/− 1.0%) will be identified. States not meeting the criterion will be required to develop and implement corrective action plans to achieve the zero excess balance criterion.

Monthly required compensating balance information will be determined by means of the following formula:

$$\text{Required compensating balance} = \frac{\text{Total bank service charges} \times (\text{days in year/days in month})}{\text{earnings credit rate}}$$

This information is contained in Federally required reports, separately stated for State unemployment funds and Federal funds.

The following example illustrates the performance measurement process:

	Average required compensating balance	Average actual compensating balance
January	$40,000	$50,000
February	60,000	70,000
March	60,000	50,000
April	40,000	45,000
May	30,000	25,000
June	20,000	22,000
July	30,000	29,000
August	26,000	33,000
September	30,000	37,000
October	60,000	58,000
November	54,000	49,000
December	60,000	41,000
Average for year	42,500	42,416

Applying the performance formula:

$$\$42{,}500 \frac{-\$42{,}416}{\$42{,}500} = -.197\% \text{ deviation}$$

That deviation falls within the +/− 1.0% tolerance; the State has met the performance criterion.

Although the State has met the ETA zero excess balance performance criterion, it is likely that adjustments to the following January balances will be required to remedy the undercompensation of the banks for the preceding year. Those adjustments will skew performance measurement and not accurately reflect State management of balances during the next calendar year unless a comparable adjustment is made in that year's performance measurement computation.

(This is an example of bank undercompensation. States should

realize that banks often will not allow credits for overcompensation to be carried forward into the next year. The time to settle this issue is during bank agreement negotiation).

These situations will be handled by ETA including an adjusting entry during the computation of zero excess balance performance. The adjusting entry is determined by multiplying the difference between average required compensating balance and average actual compensating balance for the year by 12. In this example:

($42,500−$42,416) × 12=$1,008

See the following example.

	Average required compensating balance	Average actual compensating balance
Adjustment from previous year	$1,008	(1)
January	50,000	$52,500
February	42,500	42,000
March	40,000	37,500
April	67,500	65,500
May	80,000	82,000
June	70,000	72,000
July	67,500	67,500
August	60,000	55,000
September	47,500	50,000
October	44,000	40,000
November	40,000	40,500
December	40,000	40,500
Average for year	54,167	53,750

[1] Included in January balance.

$$\frac{\$54,167 - \$53,750}{\$54,167} = -.77\%$$

State meets performance criterion.

Next year:

	Average required compensating balance	Average actual compensating balance
Adjustment for previous year.	$5,004	Included in January balance.

$5,004=($54,167−$53,750)×12

And so forth.

[FR Doc. 90–11302 Filed 5–15–90; 8:45 am]

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federal register

Wednesday
May 16, 1990

Part V

Environmental Protection Agency

40 CFR Parts 180, 185 and 186

Ethylene Bisdithiocarbametes; Reduction and Revocation of Tolerances and Food/Feed Additive Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP-300215; FRL-3736-4]

Ethylene Bisdithiocarbamates; Reduction and Revocation of Tolerances and Food/Feed Additive Regulations for Mancozeb, Maneb, Metiram, and Zineb

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Proposed rule.

SUMMARY: This document proposes (1) the reduction and/or revocation of tolerances for residues of the fungicides mancozeb, maneb, and metiram in or on 56 raw agricultural commodities covered by 45 pesticide registrations; (2) the revocation of mancozeb food/feed additive regulations for bran, flour, and milled feed fractions of barley, oats, and rye in processed foods and animal feed; and (3) the revocation of tolerances for residues of the fungicide zineb in or on all raw agricultural commodities. These actions are being proposed because the Agency has determined that the ethylene bisdithiocarbamates (EBDCs), and their common metabolite, degradate and contaminant, ethylenethiourea (ETU), pose carcinogenic risks to consumers from dietary exposure. The tolerance actions are being proposed under the Federal Food, Drug, and Cosmetic Act (FFDCA) as a companion action to the December 20, 1989 proposal to cancel certain food uses of the EBDCs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).–The proposed effective dates of the tolerance actions will vary by crop, with the actual dates depending upon the timing of the Agency's Final Determination regarding the registrations of EBDCs on different food uses or the deletion of a site from all current registrations and no indication of support for that use. The proposed effective dates will also depend upon the time it takes different commodities to clear the channels of trade. Tolerance expiration dates will be established to cover any crops which are treated legally before the effective date of cancellation. The proposed effective dates of the tolerance actions are as follows: (1) October 1990 for revocation of all zineb tolerances; (2) March 1991 for reduction of mancozeb, maneb, and metiram tolerances on commodities in which part of the harvest is stored and/or preserved, which are affected by the deletion of EBDC uses from the technical registrations, and for which there has been no indication of an interest by registrants or growers to support (apricots, fennel, kadota figs, nectarines, peaches, pineapple, and rhubarb), with those tolerances being revoked as of March 1993; (3) December 1991 for revocation of tolerances for maneb on lettuce and endive, and for mancozeb on barley, oat, and rye straw, and corn forage and fodder; (4) December 1991 for reduction of tolerances for mancozeb in kidney and liver; (5) December 1991 for reduction of tolerances on commodities in which part of the harvest is stored and/or preserved, which are affected by the proposed cancellations, and for which the Agency believes there is an interest on the part of registrants or growers in supporting (apples, bananas, barley, beans [dry and succulent], broccoli, Brussels sprouts, cabbage including Chinese cabbage, carrots, cauliflower, celery, collards, cottonseed, crabapple/quince, cucumbers, eggplants, field corn grain, kale, kohlrabi, lima beans, melons, mustard greens, oats, papayas, pears, pecans, peppers, potatoes, pumpkins, rye, spinach, squash [summer and winter], tomatoes, and turnips), with all but the tolerances for apples and potatoes proposed for revocation in December 1993, and the tolerances for apples and potatoes proposed for revocation in December 1994; and (6) December 1993 for revocation of food/feed additive regulations for mancozeb on barley, oats, and rye products.

DATES: Written comments, identified by the document control number OPP-300215, must be received on or before August 14, 1990.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. –In person, deliver comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment on this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked as confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jill Bloom, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Rm. 1006, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-557-1787.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA is proposing to revoke or reduce tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) for the fungicides mancozeb, maneb, and metiram in or on the raw agricultural commodities that would be affected by the Agency's proposal to cancel certain registrations of those fungicides. EPA also is proposing to revoke the food/feed additive regulations under section 409 of the FFDCA for processed foods and animal feed that would be affected by the proposed cancellations. In addition, the Agency is proposing the revocation of all zineb tolerances. The scientific basis for the EPA proposal to cancel certain EBDC registrations can be found in the Notice of Preliminary Determination to Cancel Certain Registrations, also called the PD 2/3, published in the **Federal Register** of December 20, 1989 (54 FR 52158). A more detailed discussion of the risks and benefits associated with use of the EBDCs and an analysis of regulatory options can be found in the EBDC Technical Support Document which provides the scientific rationale for the Preliminary Determination. (The Technical Support Document can be obtained from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 [att'n: Order Desk], Telephone: (703)-487-4650. The document is NTIS order #PB 90-143025.) In the Notice of Preliminary Determination to Cancel Certain Registrations, the Agency proposed to cancel the registrations of mancozeb, maneb, and metiram for 42 sites which the technical registrants had previously deleted from their registrations and labels, and for three additional sites where the Agency has determined that risks of continued use outweigh benefits.

The Agency also proposed cancellation of all uses of zineb. All zineb registrations currently are suspended due to failure of the sole technical registrant to develop required data. The Notice of Receipt of Requests to Amend and Cancel Registrations, published in the **Federal Register** of

December 4, 1989 (54 FR 50020), notes that this registrant has requested voluntary cancellation of its products. This request has since been granted, with no use of existing stocks permitted. No other registrant has yet stepped forward with a commitment to generate the required data, and the Agency intends to issue a Notice of Intent to Cancel all remaining zineb registrations.

II. Legal Background

The Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301 et seq.) authorizes the establishment of tolerances and exemptions from tolerances for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408, and the promulgation of food additive regulations for pesticide residues in processed food under section 409 of that Act (21 U.S.C. 346a, 348). Under the Reorganization Plan, No. 3 of 1970, 4 Stat. 3086, which established EPA, the authority to set tolerances for pesticide chemicals in raw agricultural commodities and processed food under sections 408 and 409 of the FFDCA was transferred from the Food and Drug Administration (FDA) to EPA. The FDA retains the authority to enforce the tolerance and food additive provisions under this Plan.

Without such tolerances, exemptions from tolerances, or food additive regulations (sometimes also referred to as "tolerances"), a food containing pesticide residues is "adulterated" under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 342). Pursuant to section 402(a)(2)(C) of the FFDCA, a food additive regulation is established for processed food if the pesticide residue in the processed food is greater than the tolerance prescribed for the raw agricultural commodity. Where, however, the pesticide residues in the processed food resulting from treatment of the raw agricultural commodity do not exceed the tolerance level established for the raw agricultural commodity, a separate food additive regulation is not necessary (21 U.S.C. 342 (a)(2)(C)).

To establish a tolerance or an exemption under section 408 of the FFDCA, the Agency must make a finding that the promulgation of the rule would "protect the public health" (21 U.S.C. 346a(b)). In reaching this determination, the Agency is directed to consider, among other relevant factors: (1) The necessity for the production of an adequate, wholesome and economical food supply; (2) other ways in which the consumer maybe affected by the pesticide; and (3) the usefulness of the pesticide for which a tolerance is sought. Thus, in essence, section 408 of the FFDCA gives the Agency the authority to balance risks against benefits in determining appropriate tolerance levels. The Agency is permitted to set a tolerance at zero "if the scientific data before the Administrator does not justify the establishment of a greater tolerance" (21 U.S.C. 346a(b)).

The establishment of a food additive regulation under section 409 requires a finding that use of the pesticide will be "safe" (21 U.S.C. 348(c)(3)). Relevant factors in this safety determination include: (1) The probable consumption of the pesticide or its metabolites; (2) the cumulative effect of the pesticide in the diet of man or animals, taking into account any related substances in the diet; and (3) appropriate safety factors to relate the animal data to the human risk evaluation. Section 409 contains the Delaney Clause, which specifically provides that, with very limited exceptions, no additive is deemed safe if it induces cancer when ingested by man or animals. *Id.*

For a pesticide to be sold and used in the production of a food crop or animal, the pesticide must not only have appropriate tolerances under the FFDCA but must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 et seq.). FIFRA requires the registration of all pesticides which are sold and distributed in the United States. The statutory standard for registration is that, among other things, the pesticide performs its intended function without causing "unreasonable adverse effects on the environment [including people]" (7 U.S.C. 136a(c)(5)). Under section 6 of FIFRA, EPA may cancel the registration for a use of a pesticide or modify the terms and conditions of registration whenever it determines that the use of the pesticide no longer satisfies the statutory standard for registration (7 U.S.C. 136d(b)). Such an action can result from an administrative review, known as the Special Review process, whereby the Agency collects information on the risks and benefits associated with the uses of a pesticide to determine whether any use causes unreasonable adverse effects to human health or the environment. See 40 CFR part 154.

III. Regulatory Background

The ethylene bisdithiocarbamates (EBDCs) are a group of pesticides consisting of five registered active ingredients: mancozeb, maneb, metiram, nabam, and zineb. Approximately 12 to 18 million pounds of EBDCs are used in the United States annually, primarily as protectants against fungal pathogens on potatoes, apples, cucurbits, tomatoes, onions, sweet corn, and small grains. Nabam is currently registered as an industrial biocide; all registrations of nabam for agricultural food uses have been voluntarily cancelled (54 FR 50020).

Mancozeb tolerances for raw agricultural commodities issued under section 408 are listed in the following Table 1:

TABLE 1—MANCOZEB TOLERANCES

Commodity	40 CFR Sec.	ppm
Apples	180.176	7
Asparagus	180.176	0.1
Bananas (0.5 ppm after peeling)	180.176	4
Barley grain	180.176	5
Barley straw	180.176	25
Carrots	180.176	2
Celery	180.176	5
Corn, fresh (K+CWHR)*	180.176	0.5
Corn grain (except popcorn)	180.176	0.1
Corn fodder and forage	180.176	5
Cottonseed	180.176	0.5
Crabapples	180.176	10
Cranberries	180.176	7
Cucumbers	180.176	4
Fennel	180.176	10
Grapes	180.176	7

TABLE 1—MANCOZEB TOLERANCES—Continued

Commodity	40 CFR Sec.	ppm
Kidney	180.176	0.5
Liver	180.176	0.5
Melons	180.176	4
Oat grain	180.176	5
Oat straw	180.176	25
Onion (dry bulb)	180.176	0.5
Papayas (0 ppm after peeling)	180.176	10
Peanut vine hay	180.176	65
Peanuts	180.176	0.5
Pears	180.176	10
Popcorn grain	180.176	0.5
Potatoes (interim tolerance)	180.319	1
Quinces	180.176	10
Rye grain	180.176	5
Rye straw	180.176	25
Sugar beets	180.176	2
Sugar beet tops	180.176	65
Summer squash	180.176	4
Tomatoes	180.176	4
Wheat grain	180.176	5
Wheat straw	180.176	25

*Kernels plus cob with husk removed.

Established food and feed additive regulations under section 409 for mancozeb are listed in the following Table 2:

TABLE 2—SECTION 409 MANCOZEB FOOD AND FEED ADDITIVE REGULATIONS

Commodity	40 CFR Sec.	ppm
Barley bran	185.6300	20
Barley flour	185.6300	1
Barley (milled feed fractions)	186.6300	20
Oat bran	185.6300	20
Oat flour	185.6300	1
Oats (milled feed fractions)	186.6300	20
Raisins	185.6300	28
Rye bran	185.6300	20
Rye flour	185.6300	1
Rye (milled feed fractions)	186.6300	20
Wheat bran	185.6300	20
Wheat flour	185.6300	1
Wheat (milled feed fractions)	186.6300	20

Maneb tolerances for raw agricultural commodities issued under section 408 are listed in the following Table 3:

TABLE 3—MANEB TOLERANCES

Commodity	40 CFR Sec.	ppm
Almonds	180.110	0.1
Apples	180.110	2
Apricots	180.110	10
Bananas (0.5 ppm after peeling)	180.110	4
Beans (dry form)	180.110	7
Beans (succulent form)	180.110	10
Broccoli	180.110	10
Brussels sprouts	180.110	10
Cabbage	180.110	10
Carrots	180.110	7
Cauliflower	180.110	10
Celery	180.110	5
Chinese cabbage	180.110	10
Collards	180.110	10
Cranberries	180.110	7
Cucumbers	180.110	4
Eggplants	180.110	7
Endive (escarole)	180.110	10
Figs	180.110	7

TABLE 3—MANEB TOLERANCES—Continued

Commodity	40 CFR Sec.	ppm
Grapes	180.110	7
Kale	180.110	10
Kohlrabi	180.110	10
Lettuce	180.110	10
Melons	180.110	4
Mustard greens	180.110	10
Nectarines	180.110	10
Onions	180.110	7
Papayas	180.110	10
Peaches	180.110	10
Peppers	180.110	7
Potatoes	180.110	0.1
Pumpkins	180.110	7
Rhubarb	180.110	10
Spinach	180.110	10
Sugar beet tops	180.110	45
Summer squash	180.110	4
Sweet corn (K+CWHR)	180.110	5
Tomatoes	180.110	4
Turnip tops	180.110	10
Turnips roots	180.110	7
Winter squash	180.110	4

Metiram tolerances for raw agricultural commodities issued under section 408 are listed in the following Table 4:

TABLE 4—METIRAM TOLERANCES

Commodity	40 CFR Sec.	ppm
Apples	180.217	2
Cantaloupes	180.217	4
Celery	180.217	5
Cucumbers	180.217	4
Peanuts (interim tolerance)	180.319	0.5
Pecans	180.217	0.5
Potatoes	180.217	0.5
Sugar beets (interim tolerance)	180.319	0.5
Sweet corn (K+CWHR, interim tolerance)	180.319	0.5
Tomatoes	180.217	4

Zineb tolerances for raw agricultural commodities issued under section 408 are listed in the following Table 5:

TABLE 5—ZINEB TOLERANCES

Commodity	40 CFR Sec.	ppm
Apples	180.115	2
Apricots	180.115	7
Beans	180.115	7
Beet tops	180.115	25
Beets (garden roots only)	180.115	7
Blackberries	180.115	7
Boysenberries	180.115	7
Broccoli	180.115	7
Brussels sprouts	180.115	7
Cabbage	180.115	7
Carrots	180.115	7
Cauliflower	180.115	7
Celery	180.115	5
Cherries	180.115	7
Chinese cabbage	180.115	25
Citrus fruits	180.115	7
Collards	180.115	25
Corn grain	180.115	0.1
Cranberries	180.115	7
Cucumbers	180.115	4
Currants	180.115	7
Dewberries	180.115	7

TABLE 5—ZINEB TOLERANCES—Continued

Commodity	40 CFR Sec.	ppm
Eggplants	180.115	7
Endive (escarole)	180.115	10
Gooseberries	180.115	7
Grapes	180.115	7
Guavas	180.115	7
Hops	180.115	60
Kale	180.115	10
Kohlrabi	180.115	7
Lettuce	180.115	10
Loganberries	180.115	7
Melons	180.115	4
Mushrooms	180.115	7
Mustard greens	180.115	10
Nectarines	180.115	7
Onions	180.115	7
Parsley	180.115	7
Peaches	180.115	7
Peanuts	180.115	7
Pears	180.115	7
Peas	180.115	7
Peppers	180.115	7
Plums (fresh prunes)	180.115	7
Potatoes(interim tolerance, seed piece)	180.319	0.5
Pumpkins	180.115	7
Quinces	180.115	7
Radishes (with or without tops)	180.115	7
Radish tops	180.115	7
Raspberries	180.115	7
Romaine	180.115	25
Rutabagas (with or without tops)	180.115	7
Rutabaga tops	180.115	7
Salsify	180.115	7
Spinach	180.115	10
Squash	180.115	4
Strawberries	180.115	7
Summer squash	180.115	7
Sweet corn (K+CWHR)	180.115	5
Swiss chard	180.115	25
Tomatoes	180.115	4
Turnips (with or without tops)	180.115	7
Turnip greens	180.115	7
Wheat	180.115	1
Youngberries	180.115	7

The regulatory history of the EBDCs is described in detail inthe PD 2/3 and the EBDC Technical Support Document. In 1977, the Agency initiated a Rebuttable Presumption Against Registration or RPAR process (later referred to as a Special Review), based on the presumption that the EBDCs and ETU posed the following potential risks to humans and/or the environment: carcinogenicity, developmental toxicity, and acute toxicity to aquatic organisms. Three additional areas of concern were identified, namely thyroid toxicity, mutagenicity, and skin sensitization. In 1982, the Agency concluded this RPAR by issuing a Final Determination, or PD 4, which announced measures designed to preclude unreasonable adverse effects pending development of additional data needed to arrive at a more realistic assessment of the risks. At that time, the Agency deferred a decision on carcinogenic effects because of the lack of sufficient information to estimate risk.

On July 17, 1987, the Agency initiated a second Special Review by issuing a Notice of Initiation of Special Review of the EBDC pesticides (maneb, mancozeb, metiram, nabam, and zineb) because of carcinogenic, developmental and thyroid effects caused by ethylenethiourea (ETU), a common contaminant, metabolite and degradation product of these pesticides (52 FR 27172).

In July 1989, the zineb end-use formulator who had previously agreed to support zineb registrations by developing data required under FIFRA section 3(c)(2)(B) notified the Agency that he wished to voluntarily cancel his registrations. In October 1989, the Agency issued a notice informing the remaining zineb registrants that they no longer could rely on that registrant to support their registrations. The Agency has accepted the voluntary cancellations of all the zineb registrations held by the end-use formulator who had formerly agreed to support them and all the zineb registrations of 16 other registrants who have requested voluntary cancellation of their zineb formulations. These registrations are listed in two Federal Register notices dated December 4, 1989 and March 6, 1990 (54 FR 50020 and 55 FR 7935, respectively). At the present time, no formulators have committed to support the remaining zineb registrations. The Agency expects to initiate action to cancel these remaining registrations.

In September 1989, in response to information that EPA would soon be issuing a proposed Special Review decision, the manufacturers of mancozeb, maneb, and metiram technical products registered for food uses requested that the Agency amend their technical and end-use product registrations to delete 42 of the 55 registered food uses. These registrants have labeled all their EBDC technical and end-use products manufactured following that action and all the EBDC technical and end-use stocks not in the growers' hands to specify either formulation or use only on one or more

of the following food crops: maneb (almonds, bananas, potatoes, sugar beets and sweet corn), mancozeb (asparagus, bananas, caprifigs, cranberries, grapes, onions, peanuts, potatoes, sugar beets, sweet corn/popcorn, tomatoes and wheat) and metiram (potatoes). Caprifigs are used only for the pollination of edible figs, and the use of pesticides on caprifigs is no longer considered by the Agency to be a food use. They are included with the food uses here to distinguish them from kadota figs; the use of maneb on kadota figs has been deleted from the technical registrations. The effect of relabeling the technical products is that it will become unlawful for end-use formulators using these technical materials as sources for end-use products to label their products for use on any of the 42 sites deleted from the technical product registrations and labels. In letters to the EPA dated September 6 and 8, 1989, the manufacturers of the technical materials also stated that they would support an action by the Agency to revoke tolerances for the above-mentioned 42 food uses and to reduce tolerances for some of the remaining 13 food uses.

On December 20, 1989, EPA published in the **Federal Register** a Notice of Preliminary Determination to Cancel Certain Registrations of the EBDCs (54 FR 52158). In the Preliminary Determination or PD 2/3 analysis, EPA determined that dietary risks from a cumulative lifetime exposure to the EBDCs are unreasonable. The Agency considered the aggregate risks posed by the EBDCs as currently registered, the extent to which registered uses are being supported by registrants and, where appropriate, the risks and benefits of individual uses.

The risk assessment for the EBDCs is based on the toxicity of ETU, a common contaminant, metabolite and degradation product of these pesticides. ETU has been classified by the Agency as a Group B_2 carcinogen (probable human carcinogen) based on evidence that it induced an increased incidence of thyroid tumors in two strains of rat and liver tumors in three strains of mice. The classification of ETU as a Group B_2 carcinogen is also supported by structure-activity relationships, since several other thyroid inhibitors which are structurally related to ETU have been found to induce liver and/or thyroid tumors in rodents.

From an assessment of all available data, the Agency estimated a 95-percent upper-bound ETU carcinogenic dietary risk of 4×10^{-6} to the general public from exposure to ETU from consumption of 55 food crops treated with maneb, mancozeb and metiram. This estimated risk would be higher if the uses of zineb also were allowed to continue. The estimated carcinogenic dietary risk was based on field residue studies for maneb, mancozeb, and metiram where the parent compound (EBDC) and ETU were measured, and took into consideration percent-of-crop treated estimates. Estimated carcinogenic dietary risk was considered as the total ETU contribution to individual crops because currently available analytical methods are unable to determine the source of the ETU contribution from individual EBDC chemicals, and more than one EBDC is registered for use on some crops.

Forty-five uses of mancozeb, maneb, and metiram, and all uses of zineb were proposed for cancellation due to the unacceptable cumulative carcinogenic risk from ETU. Initially, there was no demonstration by the registrants of a desire to support 42 of these uses with the necessary data. The technical registrants requested that these uses be deleted from their registrations and modified their labels to prohibit the use of their technical products in formulating end-use products for those uses. For the 13 remaining mancozeb, maneb, and metiram food uses, the Agency considered a risk-benefit balancing of each crop individually as well as cumulatively to determine which crops had estimated benefits outweighed by estimated risks and to determine which crops could be retained to give an acceptable cumulative dietary risk. The Agency determined that a group of 10 crops yielded acceptable individual and cumulative dietary risk estimates. These crops and the EBDCs for which they are registered are: almonds, sugar beets, and sweet corn (maneb); asparagus, caprifigs, cranberries, grapes, onions, peanuts, sugarbeets, sweet corn/pop corn, and wheat (mancozeb). The 10 crops have an estimated upper-bound cumulative dietary risk of 3×10^{-6} and cumulative benefits of $13 to $26 million in producer impacts. The risk/benefit analyses which were the basis for EPA's action are summarized in section IV below and presented in detail in the EBDC Special Review Technical Support Document.

The Notice of Preliminary Determination stated that the Agency intended to propose tolerance revocations for the uses proposed for cancellation in the document within 90 days of its issuance. The Agency intends to finalize the tolerance actions when all products for such uses are voluntarily cancelled, or when cancellation becomes effective as a result of Agency action. In issuing the final rule to revoke tolerances, the Agency will set tolerance expiration dates which take into consideration the effective date of cancellation and existence of any crops which were treated legally before the effective date of the cancellation. Tolerances for retained uses will be reevaluated once the Agency receives metabolism and residue data required under the EBDC Comprehensive Data Call-Ins, Registration Standards, and the March 1989 EBDC Data Call-In. The Agency will propose any necessary adjustments to raise or lower existing tolerances at that time.

IV. Current Proposal

A. Timing of the Current Proposal

It is generally EPA policy not to revoke pesticide tolerances under FFDCA prior to cancellation of the registration under FIFRA (47 FR 42956; Sept. 29, 1982). The Agency's policy attempts to coordinate action under the two statutory authorities in a logical manner by ensuring that pesticides which may be legally sold, distributed, and used under FIFRA do not result in crops which are adulterated under FFDCA. The Agency believes that coordinating action under the two statutes is important for providing fair notice to growers on what pesticides they may use without the possibility of incurring legal sanctions. In proposing the tolerance actions for the EBDCs at this time (before the proposed cancellations become effective), the Agency is taking steps to ensure that revocations will proceed swiftly once the cancellations of the associated registrations become final.

B. Summary of Risk and Benefit Assessments

There are currently tolerances for mancozeb, maneb, metiram, and zineb under section 408 of the FFDCA, and food and feed additive regulations for mancozeb under section 409 of the FFDCA. There are no tolerances established for nabam residues. Under section 408, a pesticide tolerance may be approved if it "protects the public health." The statute requires consideration of a number of factors including the "necessity for the production of an adequate, wholesome, and economical food supply" (section 408(b)). Thus, EPA must balance risks and benefits in assessing whether a tolerance "protects the public health." Under section 409, a pesticide tolerance may only be approved if use of the pesticide is "safe" (21 U.S.C. 348(c)).

In applying these standards, the Agency is relying on the analysis contained in the Preliminary Determination to Cancel Certain Registrations of the Ethylene Bisdithiocarbamates (54 FR 52158) and the EBDC Special Review Technical Support Document. Summaries of the dietary risk assessment and the benefits assessment from those documents are provided below.

1. *Risk considerations.* Exposure to the EBDCs and ETU can occur through application of the pesticides to crops and from eating foods containing residues of EBDCs and ETU. The dietary effects of concern are carcinogenicity and thyroid effects. A detailed discussion of the dietary risk assessment can be found in the PD 2/3 and the EBDC Technical Support Document.

2. *Dietary exposure assessment.* To estimate the amount of EBDC and ETU residues present on food, the Agency used field trial residue data for mancozeb, maneb, metiram, and ETU adjusted with usage data to account for the percentage of a commodity that is actually treated with each pesticide. These residue data are the result of chemical analyses on crops that have been treated with close to maximum allowable levels of the pesticides, at least at the typical number of legal applications, and with the minimum preharvest interval. The data are also corrected for the degradation of ETU in sample storage as necessary. Some data are also available for effects of washing, cooking, and other processing (e.g., peeling and trimming). These data and information have been incorporated into the Agency's current Dietary Exposure Assessment. Residue estimates obtained in this fashion are generally expected to exceed actual levels in produce, and are used in the absence of market basket data, which can provide a more realistic estimate of dietary exposure.

EPA has required EBDC registrants to conduct and submit an extensive residue monitoring (market basket) study. Data have generally been required for one major crop in each crop group for which EBDCs are registered, for major processed commodities, and for meat and milk. All data are due to be received at EPA by September 30, 1990. Earlier registrant residue monitoring studies and FDA and State monitoring studies indicate that residues may be 1 to 2 orders of magnitude lower than the Agency's current residue estimates. The Agency, therefore, believes that current residue estimates are likely to overestimate cumulative dietary risk and individual risk on many crops.

3. *Risk estimation—a. Carcinogenicity.* For chronic exposure, the Agency estimates the average residue in food at the time of consumption (anticipated residue). For the EBDCs, this anticipated residue is the sum of residues of ETU in the food (direct exposure) and ETU that is a product of the metabolic conversion of EBDC residues within the body (indirect exposure). To estimate indirect ETU exposure, EBDC exposure is multiplied by a metabolic conversion factor. EBDC data available to the Agency indicate that the ETU metabolic conversion rate for all parent EBDC compounds is approximately 7.5 percent of the amount of EBDC consumed.

The resultant anticipated residue is multiplied by the percent of crop treated and then by a lifetime food consumption estimate (based on a 1978-1979 USDA survey) to yield the Anticipated Residue Contribution (ARC). In its exposure assessment, the Agency assumes a lifespan of 70 years for the general population, 1 year of exposure for infants, and 6 years of exposure for children. Different food consumption estimates are used for subgroups with unique consumption patterns, including different ethnic groups, infants, and children.

Another adjustment that the Agency has incorporated into its EBDC risk assessment relates to a comparison of the ratio of body weight to surface area of the animal species upon which the oncogenicity testing was performed to the ratio of body weight to surface area in an adult human. The ratio of body weight to surface area is different for children and infants, however, so the Agency has included an additional correction factor to more accurately estimate the risk to these two subgroups. The preliminary Q_1^* of 0.6 $(mg/kg/day)^{-1}$ used to estimate the upper bound of dietary risk for the overall population was further adjusted for infants by a factor of 0.51 and for children aged 1 through 6 by a factor of 0.64. This additional body weight to surface area adjustment to the "adult" Q_1^* to estimate the upper bound of carcinogenic risk to infants and children has not been done previously by the Agency for other pesticides. The Agency has solicited comment on this approach.

The ARC is multiplied by the carcinogen potency factor (Q_1^*) for ETU to estimate the potential carcinogenic risk. The resultant product (usually expressed as a number times 10 raised to a negative power) represents a probability of cancer development in the population of interest. The PD 2/3 gives an estimated upper-bound cumulative lifetime dietary risk of 4×10^{-4} for the general population from the 55 food uses of mancozeb, maneb, and metiram. The action the technical registrants took in deleting 42 food crops from the labels of their technical products decreased the estimated lifetime risk to 2×10^{-5}. The regulatory action proposed by the Agency, which proposes the retention of 10 food crops, would lower the estimated cumulative dietary risk from EBDC food uses to 3×10^{-6}. For three groups (the general population, nonnursing infants, and children 1 through 6 years of age), EPA estimated the interim dietary risk for the time until a final determination would be made, if the 13 crops unaffected by the registrant actions remain on the labels of mancozeb, maneb, and metiram products. If all 13 uses are available for 2 more years, EPA estimates the incremental risk to the general population would be 6×10^{-7}. The estimated risk to infants would be 1×10^{-6}, and the estimated risk to children aged 1 through 6 would be 1×10^{-6}. Given that these are upper-bound risk estimates, EPA believes these estimated risks to be acceptable during the interim period. The Agency has proposed to cancel three sites in addition to the 42 sites which the technical registrants have deleted from their registrations. The estimated incremental risks from the use of the EBDCs on the remaining 10 sites not proposed for cancellation would be even lower.

b. *Thyroid effects.* For thyroid effects, the ARC is compared to a standard, the Reference Dose, or RfD, and expressed as a percentage of the RfD. The RfD is calculated by using data from the appropriate animal test and reflects the application of safety and uncertainty factors. Exposures below 100 percent of the RfD are considered to be acceptable. Using the LEL of 0.25 mg/kg body weight/day for thyroid effects from a 2-year rat study, the Agency has estimated that currently registered food uses of mancozeb, maneb, and metiram result in an ETU exposure of 825 percent of the RfD for the general population, 1,313 percent of the RfD for nonnursing infants, and 1,837 percent of the RfD for children aged 1 through 6. The regulatory action proposed by the Agency reduces the estimated exposure to ETU to 7 percent of the RfD for the general population, and 12 and 15 percent for nonnursing infants and children aged 1 through 6 years, respectively.

4. *Benefits summary.* The information used to evaluate the benefits of the EBDCs was gleaned from many sources, including public comments, registrants,

USDA/State Extension Service and research personnel, State pest control publications, scientific literature, the USDA/State/EPA 1978 Assessment of EBDC Fungicide Uses in Agriculture, and an Agency contractor.

Benefits of EBDC use are calculated as economic impacts from the cancellation of EBDC uses, and are comprised of producer impacts and efficiency (societal) impacts. Producer impacts are based on projected changes in production costs, changes in crop yield, and reduction in crop quality. Efficiency impacts are defined as the loss to society (growers, distributors, consumers, and others) of the dollar value of goods and services no longer available as a result of the action. Efficiency impacts have been estimated for the three crops where there are potential substantial impacts beyond the producer level, i.e., lettuce, peppers, and celery.

The benefits assessment includes an analysis of alternative pest control technologies including both chemical and nonchemical methods. The most probable alternatives to EBDCs were chosen on the bases of cost, efficacy, market availability, and the pesticides suggested for particular uses by State experts and the Cooperative Extension Service.

The benefits assessment is limited by deficiencies in the available usage information, comparative data on yield and quality factors for alternative control measures, and minor use crop information. In its analysis, the Agency assumed that the only chemical replacements available for the EBDCs should their registrations be cancelled are currently registered chemical alternatives.

In the PD 2/3, the Agency explored the possible economic impacts of a range of regulatory options. Detailed explanations of the benefits assessment can be found in the PD 2/3 and the Technical Support Document. The quantitative analyses themselves are available in the EBDC public docket. This document summarizes the benefits assessment for the EBDCs as registered at the time of the PD 2/3 and as estimated for the time when the proposed regulatory action becomes effective.

The broad spectrum of activity and relatively low cost of the EBDCs have made them important and widely used fungicides. Another advantage of these fungicides is in the area of fungicide resistance. The EBDCs have a multi-site mode of action (affecting two or more biochemical systems), and are better able to inhibit the development of fungicide resistance than fungicides with a single site of action. Fungicides with a multi-site mode of action can also reduce the development of resistance to fungicides having a single site mode of action when used in conjunction with them. Total usage of the EBDCs in the United States is estimated at 12 to 18 million pounds active ingredient (a.i.) per year. The largest crop uses by volume of EBDC applied are apples, cucurbits (cucumbers, melons, squash), onions, potatoes, small grains, sweet corn, and tomatoes. The largest crop uses in terms of proportion of crop treated are apples, cucurbits, lettuce, onions, peppers, potatoes, and spinach.

Current EBDC registrations on all food crops where benefits can be quantified account for approximately $46 to $75 million per year for grower benefits, and benefits to society (efficiency impacts) are estimated at between $90 to $305 million per year. The 10 crops proposed for retention in the PD 2/3 account for estimated cumulative benefits of $13 to $26 million dollars.

5. *Conclusions*. Based on all the information considered by the Agency, EPA has concluded that continuation of established tolerances for commodities associated with EBDC uses proposed for cancellation does not protect the public health, taking into account, among other things, the necessity for the production of an adequate, wholesome, and economical food supply. As to the food/feed additive regulations of mancozeb for sites which have been proposed for cancellation, the Agency has concluded that these regulations do not meet the statutory standard for safe use.

C. Proposed Actions

The reduction/revocation of section 408 and 409 tolerances for the EBDCs will not be finalized until the cancellations of the registrations in question become effective, and then the revocations will follow a schedule that will permit legally treated produce to clear the channels of trade before the new tolerance regulations become effective. In the case of produce for which some of the harvest is stored or preserved for storage, the tolerances will be reduced in a stepwise fashion to account for degradation of residues in storage and the depletion of treated commodities from the food supply. This proposal, when finalized, will become effective on the date of publication. The actual dates of effectiveness of the tolerance reductions and revocations themselves are proposed herein and will be promulgated in the final rule.

In establishing a schedule for the tolerance actions, the Agency has considered the status of the affected registrations (or the change in status proposed by the PD 2/3) and the type of commodity affected. These two factors are discussed below.

1. *Consideration of registration status—a. Uses deleted from registrations and labels of technical products.* The 42 uses of mancozeb, maneb, and metiram that have been deleted from the technical product registrations and that the Agency has proposed for cancellation fall into two categories.

For 35 of the deleted uses, the Agency has received an indication of interest to support. An interested party can support a registration by selecting an acceptable option to address any applicable data requirements, paying any required reregistration fees, submitting and obtaining Agency approval of an application for amended registration and an amended Confidential Statement of Formula reflecting a lawful source of supply for the active ingredient, and submitting any product chemistry data required to support the change in source of active ingredient.

It is possible that an end-use formulator may elect to support a use deleted by the technical registrants by fulfilling these requirements for support. The technical registrants, who have committed to develop the market basket data required by the March 1989 Data Call-In Notice, are collecting data which may be used to support some of the uses deleted from their labels and registrations. Additionally, several grower groups have expressed an interest in supporting various use sites. Sites deleted from the technical registrations for which there has been some expression of interest to support are: Apples, barley, beans (dry), beans (succulent), broccoli, Brussels sprouts, cabbage/Chinese cabbage, cantaloupes, carrots, casaba melons, cauliflower, celery, collards, cotton, crabapple/quince, crenshaw melons, cucumbers, eggplants, endive/escarole, honeydew melons, kale, kohlrabi, lettuce, lima beans, mustard greens, oats, papayas, pears, pecans, peppers, pumpkins, rye, spinach, summer and winter squash, turnips, and watermelons.

At this time, the Agency believes that there are seven uses (out of the 42 deleted uses) for which there is neither an interest on the part of end-use formulators nor growers to support, and for which there is no market basket data being developed: apricots, fennel, kadota figs, nectarines, peaches, pineapple, and rhubarb.

The Agency is proposing to reduce and/or revoke tolerances for commodities associated with the 42 EBDC deleted use sites. In proposing a

schedule for these actions, the Agency has taken into consideration whether there has been an expression of interest in supporting any particular use. In finalizing the tolerance actions, the Agency will consider whether these uses have actually been supported. The Agency will reevaluate the estimated dietary risks and benefits from any supported uses and make a final determination on the cancellation of uses and associated tolerances based on those analyses. Therefore, the Agency is proposing to reduce and/or revoke tolerances for the commodities associated with unsupported uses based on the likely effective date of their cancellation, estimated to be in October 1990. The Agency has stated its intention to give no existing stocks provisions for cancelled EBDC uses. Within 30 days of the publication or receipt of the cancellation notice, there will be no legal use of the EBDCs on those seven crops. The Agency is designating a period of 6 months from the time of cancellation to allow legally treated fresh produce to clear the market, placing the proposed effective date for reduction of corresponding tolerances at March 1991. The proposed date of revocation for these tolerances is March 1993. (See section C.2.b. below.)

The Agency is scheduling the proposed tolerance actions on commodities for which there has been an expressed interest to support to coincide with issuance of its Final Determination on the EBDC food use registrations, now scheduled for spring of 1991. Cancellations for uses that have not been adequately supported would become effective by approximately June 1991. Allowing 6 months for the clearance of legally treated fresh produce from the market places, the proposed date of tolerance reductions is December 1991, with the proposed revocations effective December 1993, with the exception of apples. Revocation of tolerances for apples is proposed for December 1994. For commodities in this group with fresh uses only(lettuce, endive, corn fodder and forage, straws of barley, oats and rye), tolerance revocations are proposed for December 1991. For an explanation of these exceptions, see sections C.2.a. and C.2.b. below.

b. *Three additional uses proposed for cancellation.* The Agency has proposed that registrations for three additional food uses of mancozeb, maneb, and metiram be cancelled due to unreasonable health risks: bananas and tomatoes (mancozeb and maneb), and potatoes (mancozeb, maneb, and metiram). The Final Determination on cancellation of these uses has been scheduled for spring of 1991. In proposing the revocation of tolerances for these sites, the Agency is assuming a date of effective cancellation shortly after the issuance of the Final Determination, or approximately June 1991. Tolerance revocation dates proposed in this document must necessarily account for the legal use of EBDC products on bananas, potatoes, and tomatoes up until that date. The effective date of tolerance reductions is therefore proposed for 6 months later, or December 1991. The effective date of tolerance revocations is proposed for December 1993 in the case of bananas and tomatoes, and December 1994 for potatoes, as described in section C.2.b. below.

c. *Zineb.* The Agency has contacted the registrants of zineb in order to ascertain whether they intend to support registrations of zineb. The time period for response has expired without a single registrant coming forward with such a commitment. Cancellation of all zineb registrations is therefore considered imminent and should become effective once appropriate notices are issued and procedural requirements met. The Agency will issue the Notice of Intent to Cancel zineb registrations ahead of certain other EBDC actions. All registrations of zineb are currently suspended, and it is Agency policy not to grant an existing stocks provision when suspended products are cancelled. The cancellation date for all zineb products is estimated to be October 1990. The revocation date for all zineb tolerances is proposed for the same date, based on the premise that no registrant will come forward before that time to support zineb.

Residues of mancozeb, maneb, and metiram are calculated or expressed in terms of zineb (zinc ethylene bisdithiocarbamate). EBDC residues will continue to be expressed as zineb after zineb tolerances themselves are revoked.

2. *Other factors influencing proposed actions.* In addition to the legal status of EBDC registrations, the Agency is considering other factors which affect the presence and persistence of residues resulting from the legal treatment of crops. For this purpose, commodities containing residues of the EBDCs can be divided into five subgroups: (1) Those which are intended exclusively for fresh use, (2) those in which some portion of the crop is stored or preserved for storage, (3) commodities which may contain residues as a result of seed treatment, (4) meat products, and (5) commodities with food/feed additive regulations. Each of these subgroups and the impact that they have on the proposed tolerance actions is discussed below.

a. *Commodities with fresh uses only.* Endive, lettuce, straws of barley, oats, and rye, and corn fodder and forage are the only commodities that are affected by the proposed cancellations which are marketed or used solely as fresh products. Maneb is currently registered for use on endive and lettuce, and mancozeb is registered for use on barley, field corn, oats, and rye. The technical registrants have deleted all these uses from their registrations and product labels, and the Agency is proposing to cancel mancozeb and maneb registrations for these uses. These sites are also among those for which the Agency has received an indication of an intent to support. The date of cancellation for uses in this group is estimated to be June 1991, because the Agency believes it will be able to determine if any of these uses will be adequately supported by that time. The Agency has stated its intention not to grant existing stocks provisions for cancelled EBDC food uses, so the last legal use of mancozeb and maneb on barley, field corn, oats, rye, and lettuce and endive would occur no later than 30 days after the publication or receipt of the cancellation notice. Barley straw, endive, lettuce, corn fodder and forage, oat straw, and rye straw with residues resulting from legal application of mancozeb and maneb should not persist into 1992. The Agency is therefore proposing the revocation of tolerances for mancozeb and maneb in or on these commodities for December 1991.

b. *Commodities which are stored or preserved for storage.* In most crops for which EBDC fungicides are registered, some portion of the harvest is stored or processed. The processing procedure may be freezing, canning (including pickling), drying (including dried herbs and seed for seasoning), vacuum-packing, or extraction of oil. Processing enables preservation of these commodities, with a consequence being the prolonged availability of commodities from treated crops. In proposing the revocation of tolerances for commodities which may have been treated with EBDC pesticides prior to cancellation, the Agency must consider how much time it takes for preserved stocks to clear the market, how residues degrade during storage on the shelf, and how long before residues decline to a nondetectable level.

Seven sites are proposed for cancellation with an estimated effective

date of October 1990, with no fresh produce that has been legally treated available after March 1991. These sites are apricot, fennel, kadota figs, nectarines, peaches, pineapple, and rhubarb. The Agency believes that some portion of the harvest of each of these sites is processed for storage.

Sites registered for maneb, mancozeb, or metiram which have been proposed for cancellation, for which the effective date of cancellation is estimated to be June 1991, and for which some portion of the harvest is processed are as follows: Apples, bananas, barley, beans (dry and succulent), broccoli, Brussels sprouts, cabbage/Chinese cabbage, cantaloupes, carrots, casaba melons, cauliflower, celery, collards, cotton, crabapple/quince, crenshaw melons, cucumbers, eggplant, field corn, honeydew melons, kale, kohlrabi, lima beans, mustard greens, oats, papayas, pears, pecans, peppers, potatoes, pumpkins, rye, spinach, summer and winter squash, tomatoes, turnips, and watermelons. For these sites, the Agency believes that all fresh produce that has been legally treated should clear the market by December 1991.

In order to provide sufficient time for processed and stored forms of these commodities to clear the market, and to account for degradation of residues in these forms during storage, the Agency is proposing a phased reduction of tolerances for mancozeb, maneb, and metiram on these commodities. The Agency is proposing that tolerances for each commodity be reduced once all legally treated fresh produce has cleared the market (March or December 1991), and then be revoked 2 years after that date to allow for the depletion of stocks of processed commodities (March or December 1993). EPA is proposing to allow 3 years for the clearance of apple and potato products from the marketplace because a portion of the harvest of these two crops is kept in cold storage before being processed further, adding up to a year to the time commodities with residues resulting from legal use of the EBDCs could be found in the channels of trade. The Agency is therefore proposing to reduce tolerances for apples and potatoes in December 1991 and to revoke these tolerances in December 1994.

In cases where the data used to estimate the degradation of residues during processing and storage do not indicate a need to provide reduced tolerances, tolerances will remain at their current levels, but are proposed for revocation on the same schedule as those tolerances which will first be reduced. In addition, the Agency is proposing to revoke EBDC tolerances for banana with peel because it feels that tolerances for banana without peel are sufficient to account for banana consumption. The phased reduction and revocation of tolerances for food commodities with preserved/stored uses is illustrated in the following tables:

TABLE 6—PROPOSED AMENDMENT OF MANCOZEB TOLERANCES

Commodity	Current tolerances in ppm	Proposed tolerances in ppm	Effective date	Expiration date
Apples	7	2.5	December 1991	December 1994
Banana (w/o peel)	0.5	0.1	December 1991	December 1993
Barley grain	5	1.5	December 1991	December 1993
Carrots	2	0.2	December 1991	December 1993
Celery	5	0.5	December 1991	December 1993
Corn grain (except popcorn)	0.1	0.1	N/A*	December 1993
Cottonseed	0.5	0.3	December 1991	December 1993
Crabapples	10	2.5	December 1991	December 1993
Cucumbers	4	0.3	December 1991	December 1993
Fennel	10	0.5	March 1991	March 1993
Melons	4	0.4	December 1991	December 1993
Oat grain	5	1.5	December 1991	December 1993
Papayas	10	1	December 1991	December 1993
Pears	10	0.7	December 1991	December 1993
Potatoes	1	0.1	December 1991	December 1994
Quinces	10	2.5	December 1991	December 1993
Rye grain	5	1.5	December 1991	December 1993
Summer squash	4	0.3	December 1991	December 1993
Tomatoes	4	1	December 1991	December 1993

*Not applicable

TABLE 7—PROPOSED AMENDMENT OF MANEB TOLERANCES

Commodity	Current tolerances in ppm	Proposed tolerances in ppm	Effective date	Expiration date
Apples	2	2	N/A	December 1994
Apricots	10	10	N/A	March 1993
Banana (w/o peel)	0.5	0.1	December 1991	December 1993
Beans (dry form)	7	1	December 1991	December 1993
Beans (succulent)	10	2	December 1991	December 1993
Broccoli	10	5	December 1991	December 1993
Brussels sprouts	10	5	December 1991	December 1993
Cabbage	10	2	December 1991	December 1993
Carrots	7	7	N/A	December 1993
Cauliflower	10	0.2	December 1991	December 1993
Celery	5	5	N/A	December 1993
Chinese cabbage	10	0.2	December 1991	December 1993
Collards	10	10	N/A	December 1993
Cranberries	7	0.1	December 1991	December 1993
Cucumbers	4	1	December 1991	December 1993

TABLE 7—PROPOSED AMENDMENT OF MANEB TOLERANCES—Continued

Commodity	Current tolerances in ppm	Proposed tolerances in ppm	Effective date	Expiration date
Eggplants	7	2	December 1991	December 1993
Figs	7	0.3	March 1991	March 1993
Grapes	7	7	N/A	December 1993
Kale	10	6	December 1991	December 1993
Kohlrabi	10	5	December 1991	December 1993
Melons	4	0.4	December 1991	December 1993
Mustard greens	10	10	N/A	December 1993
Nectarines	10	10	N/A	March 1993
Onions	7	7	N/A	December 1993
Papayas	10	1	December 1991	December 1993
Peaches	10	10	N/A	March 1993
Peppers	7	4	December 1991	December 1993
Potatoes	0.1	0.1	N/A	December 1994
Pumpkins	7	0.2	December 1991	December 1993
Rhubarb	10	10	N/A	March 1993
Spinach	10	10	N/A	December 1993
Summer squash	4	0.1	December 1991	December 1993
Tomatoes	4	2	December 1991	December 1993
Turnip tops	10	10	N/A	December 1993
Turnip roots	7	7	N/A	December 1993
Winter squash	4	0.1	December 1991	December 1993

TABLE 8—PROPOSED AMENDMENT OF METIRAM TOLERANCES

Commodity	Current tolerances in ppm	Proposed tolerances in ppm	Effective date	Expiration date
Apples	2	0.7	December 1991	December 1994
Cantaloupes	4	0.4	December 1991	December 1993
Celery	5	5	N/A	December 1993
Cucumbers	4	0.3	December 1991	December 1993
Peanuts	0.5	0.1	December 1991	December 1993
Pecans	0.5	0.1	December 1991	December 1993
Potatoes	0.5	0.4	December 1991	December 1994
Sugar beets	0.5	0.5	N/A	December 1993
Sweet corn	0.5	0.15	December 1991	December 1993
Tomatoes	4	0.7	December 1991	December 1993

c. *Seed and propagation stock treatments.* Seed treatment uses of the EBDCs are not affected by the Agency's proposal to cancel registrations for certain food uses. In cases where a seed treatment use remains after the corresponding foliar use is proposed for cancellation, the foliar use will no longer be contributing to residues. EPA is proposing to revoke tolerances on commodities for which the foliar uses have been proposed for cancellation but for which legal seed treatment uses remain. The seed treatment uses that are affected by this proposal are as follows: Mancozeb on seed of barley, cotton, field corn, oats, rye, tomato, and potato seed pieces; maneb on beans and potato seed pieces; and metiram on potato seed pieces. The Agency will be requiring the necessary residue chemistry data to determine if these uses result in measurable residues. If data indicate that any of these seed treatment uses result in residues on plant materials propagated from treated seed, a dietary risk assessment will be conducted. Tolerances will then be established as necessary and appropriate.

A number of active EBDC food crop seed or planting/propagation stock treatment registrations without matching foliar uses have no established tolerances. They are mancozeb on rice, safflower, and sorghum; and maneb on barley, cotton, field corn, oats, peanuts, peas, rice, rye, sorghum, soybeans, sunflower, and wheat. Residue studies on radiolabelled compounds for seed treatment uses for which there are no corresponding foliar uses have been required by the Registration Standards. The Agency has received and is reviewing some of these residue data. If these or other data indicate the need, the Agency will require the establishment of appropriate tolerances for these uses.

The registration for mancozeb on pineapple propagation stock is considered a food use and is proposed for cancellation along with other EBDC food crop registrations. There is no tolerance for residues of mancozeb in or on pineapple. The Registration Standard for mancozeb requires data on residues in pineapple resulting from treatment of propagation stock.

Meat products. Some registrations for the use of the EBDCs on feed crops that contribute to EBDC residues in meat products have been proposed for cancellation (e.g., barley, oats, rye, apples); while others, such as wheat, sugar beets, and grapes, will be retained. The Agency used feeding study data and information on the composition of animal diets to estimate residues that could be expected in kidney and liver after the EBDC cancellation actions become final. Based on these data, the Agency is proposing to reduce the established tolerances for mancozeb in kidney and liver from 0.5 ppm to 0.1 ppm, effective December 1991.

e. *Food/feed additive regulations.* The Agency has determined that the food and feed additive regulations for commodities that are affected by the Agency's proposal to cancel certain registrations of the EBDCs do not meet the statutory standard for safe use under section 409 of the FFDCA. The Agency

believes that food/feed additive regulations for bran, flour, and milled feed fractions of barley, oats, and rye should be revoked, effective December 1993. Registrations for both wheat and grapes are not proposed for cancellation under the Agency's plan because their continued registration has not been determined to pose unreasonable risks. Therefore, food and feed additive regulations for wheat bran, wheat flour, milled feed fractions of wheat, and raisins are not proposed for revocation.

3. *Risks from implementation of proposal.* To estimate the dietary risk from the EBDCs and ETU resulting from the amendment of EBDC tolerances, it is necessary to consider the period of time from the proposed revocation of zineb tolerances, October 1990, until the date on which the last of the proposed tolerance revocations become effective, in December 1994. The table below illustrates the events that influence the quantity of EBDC and ETU residues in the food supply:

TABLE 9—TIMEFRAME FOR TOLERANCE AMENDMENTS

Date	Proposed action
1. October 1990	Revocation of all zineb tolerances.
2. March 1991	Reduction of tolerances for EBDCs on commodities in which some of the harvest is stored and/or preserved, and for which the Agency has received no indication of an intent to support the corresponding seven uses.
3. December 1991	Revocation of tolerances for mancozeb and maneb on commodities intended for fresh use only.
4. December 1991	Reduction of tolerances for mancozeb in kidney and liver.
5. December 1991	Reduction of tolerances for EBDCs on commodities in which some of the harvest is stored and/or preserved, and for which the Agency has received some indication of an interest in supporting the corresponding sites.
6. March 1993	Tolerances described in 2. above expire.
7. December 1993	Revocation of mancozeb food and feed additive regulations for barley, oats, and rye products.
8. December 1993	Tolerances described in 5. above expire, with the exception of those for apples and potatoes.
9. December 1994	Tolerances for EBDCs on apples and potatoes expire.

The current dietary risk assessment does not include estimated risk from zineb use because all those uses are suspended. Estimated risk would be greater if zineb use were included. Dietary risk from EBDCs and ETU will drop as the cancellation and tolerance actions become effective and will continue to drop until the tolerances proposed for revocation expire in December 1994, at the time the last of the processed commodities clear the channels of trade. The Agency has estimated dietary risk for the times before and after the proposed regulatory actions come into effect. Estimated dietary risk at intermediate stages can be assumed to fall between these levels. Levels of mancozeb, maneb, metiram, and ETU residues in the U.S. food supply will also decline as stocks of EBDC products labelled for use on crops that have been deleted from the technical registrations and product labels are depleted. In addition, the Agency's risk estimates are based on field trial data (farm gate residues), and the Agency believes that the required market basket data are likely to show residues at the time of purchase that are one or two orders of magnitude lower than the earlier residue estimates. Consequently, risk in any given time period may be overestimated.

As discussed in the PD 2/3, the upper-bound lifetime dietary risk due to EBDC and ETU residues from all 55 food crop uses of mancozeb, maneb, and metiram is estimated to be 4×10^{-4}. The technical registrants control the majority of the EBDC end-use product market, and because they agreed to relabel all of their products not in the growers' hands as of January 1, 1990, the estimated dietary risk will be reduced below this level. The deletion of the 42 food uses from all EBDC registrations would decrease the estimated upper-bound carcinogenic risk to 2×10^{-5}. Therefore, after January 1, 1990, the estimated lifetime dietary risk will decline toward 2×10^{-5}, as any remaining products labelled for use on more than the 13 sites are depleted through use by growers holding such stocks.

As the tolerance reductions become final and then expire, residues of ETU and the EBDCs in the diet should be present due only to use of mancozeb, maneb, and metiram on the 10 crops that the Agency has proposed for retention in the PD 2/3. Use on those 10 crops is estimated to result in an upper-bound lifetime dietary risk of 3×10^{-6}. The estimated incremental dietary risk from the present until December 1994 cannot be quantified from the information available. Based on estimates explained here and in the Technical Support Document, EPA believes this incremental risk to be acceptable.

V. Public Comment Procedures

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains maneb, mancozeb, metiram or zineb may request within 30 days after publication of this document in the **Federal Register** that this proposal to amend the EBDC tolerances listed at 40 CFR 180.110, 180.115, 180.176, 180.217, and 180.319 be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA). No such procedure for an advisory committee is available under the FFDCA for the food and feed additive regulations listed at 40 CFR 185.6300 and 40 CFR 186.6300, respectively, which this document proposes to revoke.

Interested persons are invited to submit written comments on this proposal to amend EBDC tolerances and food/feed additive regulations listed at 40 CFR 180.110, 180.115, 180.176, 180.217, 180.319, 185.6300, and 186.6300 for residues of mancozeb, maneb, metiram, and zineb. Comments must bear a notation indicating the document control number, [OPP-300215]. Three copies of the comments should be submitted to facilitate the work of the Agency in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. The analysis of risks and benefits of EBDC use is set forth in the Preliminary Determination to Cancel Certain EBDC Registrations (54 FR 52158) and the accompanying Technical Support Document.

VI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed rule is not a major regulatory action under the terms of Executive Order 12291. Although the proposal to cancel certain registrations of the EBDCs may be considered to meet some of the criteria for a major regulatory action, i.e., have an annual

effect on the economy of at least $100 million, cause a major increase in prices, and/or have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises, the proposal to amend tolerances will not become effective until after the corresponding registrations are cancelled. Since the tolerance actions will pertain to cancelled uses only, there will be no further economic impacts as a result of the revocation actions.

This proposed rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

Because EPA anticipates that it will issue a notice of cancellation for the affected food use registrations of maneb, mancozeb, metiram, and zineb within 18 months, and the associated tolerances will not be reduced and/or revoked until all commodities with residues resulting from legal treatment have cleared the market, the Agency anticipates that little or no economic impact would occur at any level of business enterprise if these tolerances were revoked. Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. (section 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(m))).

List of Subjects in 40 CFR Parts 180, 185, and 186

Administrative practice and procedure, Agricultural commodities, Animal feeds, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR parts 180, 185, and 186 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. Section 180.110 is revised to read as follows:

§ 180.110 Maneb; tolerances for residues.

(a) Tolerances for residues of the fungicide maneb (manganous ethylene bisdithiocarbamate), calculated as zinc ethylene bisdithiocarbamate, are established in or on raw agricultural commodities, as follows:

Commodity	Parts per million
Almonds	0.1
Sugar beet tops	45
Sweet corn	5

(b) Interim tolerances for residues of the fungicide maneb(manganous ethylene bisdithiocarbamate), calculated as zinc ethylene bisdithiocarbamate, are established in or on the following raw agricultural commodities. These tolerances become effective and expire on the given dates.

Commodity	Parts per million	Effective date of reduced tolerance	Expiration date
Apples	2	N/A	December 1994
Apricots	10	N/A	March 1993
Bananas (without peel).	0.1	December 1991	December 1993
Beans (dry form).	1	December 1991	December 1993
Beans (succulent forms).	2	December 1991	December 1993
Broccoli	5	December 1991	December 1993
Brussels sprouts.	5	December 1991	December 1993
Cabbage	2	December 1991	December 1993
Carrots	7	N/A	December 1993
Cauliflower	0.2	December 1991	December 1993
Celery	5	N/A	December 1993
Chinese cabbage.	0.2	December 1991	December 1993
Collards	10	N/A	December 1993
Cranberries	0.1	December 1991	December 1993
Cucumbers	1	December 1991	December 1993
Eggplants	2	December 1991	December 1993
Endive (escarole).	10	N/A	December 1991
Figs	0.3	March 1991	March 1993
Grapes	7	N/A	December 1993
Kale	6	December 1991	December 1993
Kohlrabi	5	December 1991	December 1993
Lettuce	10	N/A	December 1991
Melons	0.4	December 1991	December 1993
Mustard greens	10	N/A	December 1993
Nectarines	10	N/A	March 1993
Onions	7	December 1991	December 1993
Papayas	1	December 1991	December 1993
Peaches	10	N/A	December 1993
Peppers	4	December 1991	December 1993
Potatoes	0.1	N/A	December 1993
Pumpkins	0.2	December 1991	December 1993
Rhubarb	10	N/A	December 1993
Spinach	10	December 1991	December 1993
Summer squash	0.1	December 1991	December 1993
Tomatoes	2	December 1991	December 1993
Turnip tops	10	N/A	December 1993
Turnip roots	7	N/A	December 1993
Winter squash	0.1	December 1991	December 1993

c. Section 180.115 is revised to read as follows:

§ 180.115 Zineb; tolerances for residues.

Tolerances for residues of the fungicide zineb (zinc ethylene bisdithiocarbamate) in or on raw agricultural commodities are established as follows:

Commodity	Parts per million	Expiration date
Apples	2	October 1990
Apricots	7	October 1990
Beans	7	October 1990
Beet tops	25	October 1990
Beets (garden roots only)	7	October 1990
Blackberries	7	October 1990
Boysenberries	7	October 1990
Broccoli	7	October 1990
Brussels sprouts	7	October 1990
Cabbage	7	October 1990
Carrots	7	October 1990

Commodity	Parts per million	Expiration date
Cauliflower	7	October 1990
Celery	5	October 1990
Cherries	7	October 1990
Chinese cabbage	25	October 1990
Citrus fruits	7	October 1990
Collards	25	October 1990
Corn grain	0.1	October 1990
Cranberries	7	October 1990
Cucumbers	4	October 1990
Currants	7	October 1990
Dewberries	7	October 1990
Eggplants	7	October 1990
Endive (escarole)	10	October 1990
Gooseberries	7	October 1990
Grapes	7	October 1990
Guavas	7	October 1990
Hops	60	October 1990
Kale	10	October 1990
Kohlrabi	7	October 1990
Lettuce	10	October 1990
Loganberries	7	October 1990
Melons	4	October 1990
Mushrooms	7	October 1990
Mustard greens	10	October 1990
Nectarines	7	October 1990
Onions	7	October 1990
Parsley	7	October 1990
Peaches	7	October 1990
Peanuts	7	October 1990
Pears	7	October 1990
Peas	7	October 1990
Peppers	7	October 1990
Plums (fresh prunes)	7	October 1990
Potatoes (interim tol., seed piece)	0.5	October 1990
Pumpkins	7	October 1990
Quinces	7	October 1990
Radishes (with or without tops)	7	October 1990
Radish tops	7	October 1990
Raspberries	7	October 1990
Romaine	25	October 1990
Rutabagas (with or without tops)	7	October 1990
Rutabaga tops	7	October 1990
Salsify	7	October 1990
Spinach	10	October 1990
Squash	4	October 1990
Strawberries	7	October 1990
Summer squash	7	October 1990
Sweet corn (K+CWHR)	5	October 1990
Swiss chard	25	October 1990
Tomatoes	4	October 1990
Turnips (with or without tops)	7	October 1990
Turnip greens	7	October 1990
Wheat	1	October 1990
Youngberries	7	October 1990

d. Section 180.176 is revised to read as follows:

§ 180.176 Coordination product of zinc ion and maneb; tolerances for residues.

(a) Tolerances for residues of the fungicide which is a coordination product of zinc ion and maneb (manganous ethylene bisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylene bisdithiocarbamate (the whole product calculated as zinc ethylene bisdithiocarbamate), also known as mancozeb, are established as follows:

Commodity	Parts per million
Asparagus	0.1
Cranberries	7
Grapes	7
Onion (dry bulb)	0.5
Peanut vine hay	65
Peanuts	0.5
Popcorn grain	0.5
Sugar beets	2
Sugar beet tops	65
Sweet corn (K+CWHR)	0.5
Wheat grain	5
Wheat straw	25

(b) Interim tolerances for residues of the fungicide which is a coordination product of zinc ion and maneb (manganous ethylene bisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylene bisdithiocarbamate (the whole product calculated as zinc ethylene bisdithiocarbamate), also known as mancozeb, are established in or on the following raw agricultural commodities. These tolerances become effective and expire on the given dates.

Commodity	Parts per million	Effective date of reduced tolerance	Expiration date
Apples	2.5	December 1991	December 1994
Banana, w/o peel.	0.1	December 1991	December 1993

Commodity	Parts per million	Effective date of reduced tolerance	Expiration date
Barley grain	1.5	December 1991	December 1993
Barley straw	25	N/A	December 1991
Carrots	0.2	December 1991	December 1993
Celery	0.5	December 1991	December 1993
Corn grain (except popcorn).	0.1	December 1991	December 1993
Corn fodder and forage.	5	N/A	December 1991
Cottonseed	0.3	December 1991	December 1993
Crabapples	2.5	December 1991	December 1993
Cucumbers	0.3	December 1991	December 1993
Kidney	0.1	December 1991	N/A
Liver	0.1	December 1991	N/A
Fennel	10	March 1991	March 1993
Melons	0.4	December 1991	December 1993
Oat grain	1.5	December 1991	December 1993
Oat straw	25	N/A	December 1991
Papayas	1	December 1991	December 1993
Pears	0.7	December 1991	December 1993
Potatoes	0.1	December 1991	December 1994
Quinces	2.5	December 1991	December 1993
Rye grain	1.5	December 1991	December 1993
Rye straw	25	N/A	December 1991
Summer squash	0.3	December 1991	December 1993
Tomatoes	1	December 1991	December 1993

e. Section 180.217 is revised to read as follows:

§ 180.217 Ammoniates of [ethylenebis(dithiocarbamato)] zinc and ethylenebis[dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides; tolerances for residues.

Interim tolerances for residues of the fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis(carbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylene bisdithiocarbamate, also known as metiram, are established in or on the following raw agricultural commodities. These tolerances become effective and expire on the given dates.

Commodity	Parts per million	Effective date of reduced tolerances	Expiration date
Apples	0.7	December 1991	December 1994
Cantaloupes	0.4	December 1991	December 1993
Celery	5	N/A	December 1993
Cucumbers	0.3	December 1991	December 1993
Peanuts	0.1	December 1991	December 1993
Pecans	0.5	December 1991	December 1993
Potatoes	0.4	December 1991	December 1994
Sugar beets	0.5	N/A	December 1993
Sweet corn	0.15	December 1991	December 1993
Tomatoes	0.7	December 1991	December 1993

§ 180.319 [Amended]

f. Section 180.319, Interim tolerances, is amended in the table therein by removing the following entries: "Coordination product of zinc ion and maneb," "Zineb (zinc ethylenebisdithiocarbamate)," and "Ammoniates of [ethylenebis(dithiocarbamato)] zinc and ethylenebis-[dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides."

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 185.6300 is revised to read as follows:

§ 185.6300 Zinc ion and maneb coordination product.

Tolerances are established for residues of the fungicide which is a coordination product of zinc ion and maneb(manganous ethylene bisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylene bisdithiocarbamate (the whole product calculated as zinc ethylene bisdithiocarbamate), also known as mancozeb, in or on the following processed foods, when present therein as a result of the application of this fungicide to growing crops:

Commodity	Parts per million	Expiration date
Barley bran	20	December 1993
Barley flour	1	December 1993
Oat bran	20	December 1993
Oat flour	1	December 1993
Raisins	28	N/A
Rye bran	20	December 1993
Rye flour	1	December 1993
Wheat bran	20	N/A
Wheat flour	1	N/A

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 186.6300 is revised to read as follows:

§ 186.6300 Zinc ion and maneb coordination product.

Tolerances are established for residues of the fungicide which is a coordination product of zinc ion and maneb (manganous ethylene bisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylene bisdithiocarbamate (the whole product calculated as zinc ethylene bisdithiocarbamate), also known as mancozeb, in or on the following processed feed, when present therein as a result of the application of this fungicide to growing crops:

Commodity	Parts per million	Expiration date
Barley, milled feed fractions.	20	December 1993
Oats, milled feed fractions.	20	December 1993
Rye, milled feed fractions.	20	December 1993
Wheat, milled feed fractions.	20	N/A

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federal register

Wednesday
May 16, 1990

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 333 et al.

Status of Certain Over-the-Counter Drug Category II and III Ingredients; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 333, 334, 335, 341, 344, 347, 348, 350, 355, 356, 357 and 358

[Docket No. 89N-0525]

RIN 0905-AA06

Status of Certain Over-the-Counter Drug Category II and III Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking stating that certain ingredients in over-the-counter (OTC) drug products are not generally recognized as safe and effective or are misbranded. FDA is issuing this notice of proposed rulemaking after considering the reports and recommendations of various OTC advisory review panels and public comments on the agency's proposed regulations, which were issued in the form of a tentative final monograph (proposed rule). Based on the absence of substantive comments in opposition to the agency's proposed nonmonograph status for these ingredients as well as the failure of interested parties to submit new data or information to FDA pursuant to 21 CFR 330.10(a)(7)(iii), FDA has determined that the presence of these ingredients in an OTC drug product would result in that drug product not being generally recognized as safe and effective or would result in misbranding. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposal before the Commissioner of Food and Drugs by July 16, 1990. Written comments on the agency's economic impact determination by July 16, 1990.

ADDRESSES: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In various issues of the **Federal Register**, FDA has published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), advance notices of proposed rulemaking to establish monographs for specific classes of OTC drug products, together with the recommendations of the OTC advisory review panels, which were responsible for evaluating data on the active ingredients in the specific drug class(es) in each proposed monograph. Following publication of each proposed monograph, interested parties were invited to submit comments within a set time period, with an additional period of time allowed for reply comments in response to comments filed in the initial comment period.

After evaluation and consideration of the OTC advisory review panels' recommendations and the comments and reply comments received in response to the initial publication of the advance notices of proposed rulemaking, the agency's proposed regulations in the form of various tentative final monographs for specific classes of OTC drug products were published in the **Federal Register.** Interested persons were invited to file comments, objections, and/or requests for an oral hearing before the Commissioner of Food and Drugs regarding the specific proposals within a set time period. A period of 12 months was provided for the submission of new data and information regarding each specific proposed rulemaking, and 2 additional months were provided for comments on the new data to be submitted.

This proposed rulemaking encompasses all Category II and Category III ingredients for which the periods for submission of comments and new data following the publication of a notice of proposed rulemaking have closed and for which no significant comments or new data to upgrade the status of these ingredients have been submitted. In each instance, a final rule for the class of ingredients involved has not been published to date. Other ingredients in classes of drugs for which a notice of proposed rulemaking has not been published to date will be addressed in future issues of the **Federal Register.**

Under the OTC drug review administrative procedures (21 CFR 330.10(a)(7)(ii)), the Commissioner may publish a separate tentative order covering active ingredients that have been reviewed and may propose that these ingredients be excluded from an OTC drug monograph on the basis of the Commissioner's determination that they would result in a drug product not being generally recognized as safe and effective or would result in misbranding. This order may include active ingredients for which no substantial comments in opposition to the advisory panel's proposed classification and no new data and information were received pursuant to § 330.10(a)(6)(iv) (21 CFR 330.10(a)(6)(iv)). While § 330.10(a)(7)(ii) authorizes the publication of a separate tentative order immediately following the close of the comment and new data periods for an advance notice of proposed rulemaking, the Commissioner has waited in the case of these ingredients until after proposed rulemakings were published and the periods for submission of comments and new data have ended to allow for the fullest possible opportunity for public comment and receipt of new data to upgrade the status of these ingredients.

As mentioned, no substantive comments or new data were submitted to support reclassification of any of these ingredients to monograph status. Therefore, before a final rule on each respective drug category is published, the Commissioner is proposing that these ingredients be found not generally recognized as safe and effective and that any OTC drug product containing any of these ingredients not be allowed to continue to be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. FDA has elected to act on these ingredients in advance of finalization of other monograph conditions in order to expedite completion of the OTC drug review. Manufacturers are encouraged to comply voluntarily at the earliest possible date.

Table I below lists the title and docket number of the specific rulemakings containing active ingredients that are addressed in this document together with the publication dates of the advance notice of proposed rulemaking (ANPR) and the notice of proposed rulemaking (NPR), as well as the closing dates for comments and submission of new data for each rulemaking. This proposal does not constitute a reopening of the administrative record or an opportunity to submit new data to any of the specified rulemakings. Should an interested person submit a comment indicating that substantive comments or new data were previously submitted to the administrative record for any of the specified rulemakings, the agency will review the record for that rulemaking and make a determination whether the affected ingredient shall continue to be evaluated under that specified rulemaking or be included in the final rule that will issue pursuant to this proposed rule.

FDA advises that the active ingredients discussed in this document (see table II below) will not be included in the relevant final monographs because they have not been shown to be generally recognized as safe and effective for their intended use. The agency further advises that these ingredients should be eliminated from OTC drug products 6 months after the date of publication in the **Federal Register** of a final rule in this proceeding regarding their status, regardless of whether further testing is undertaken to justify future use, and regardless of whether the relevant OTC drug monographs have been finalized at that time. The OTC drug review administrative procedures provide that any new data and information submitted after the administrative record has closed following publication of a tentative final monograph (TFM) (notice of proposed rulemaking) but prior to the establishment of a final monograph will be considered by the Commissioner only after a final monograph has been published in the **Federal Register** unless the Commissioner finds that good cause has been shown that warrants earlier consideration. (See 21 CFR 330.10(a)(7)(v).)

The agency points out that publication of a final rule under this proceeding does not preclude a manufacturer's testing an ingredient. New, relevant data can be submitted to the agency at a later date as the subject of a new drug application (NDA) that may provide for prescription or OTC marketing status. (See 21 CFR part 314). As an alternative where there are adequate data establishing general recognition of safety and effectiveness, such data may be submitted in an appropriate citizen petition to amend or establish a monograph, as appropriate. (See 21 CFR 10.30.)

TABLE I.—OTC DRUG RULEMAKINGS COVERED BY THIS NOTICE

Rulemaking	Publication date	Comment closing date	New data closing date
(1) Topical Acne Drug Products (Docket No. 81N-0114):			
ANPR	March 23, 1982	July 21, 1982	N/A.
NPR	January 15, 1985	May 15, 1985	March 17, 1986.
(2) Anticaries Drug Products (Docket No. 80N-0042):			
ANPR	March 28, 1980	July 28, 1980	N/A.
NPR	September 30, 1985	November 29, 1985	December 1, 1986.
NPR (Amended-Laboratory Testing Profiles)	June 15, 1988	October 13, 1988	August 15, 1989.
(3) Antidiarrheal Drug Products (Docket No. 78N-036D):			
ANPR	March 21, 1975	July 19, 1975	N/A.
NPR	April 30, 1986	June 30, 1986	June 30, 1987.
(4) Antiperspirant Drug Products (Docket No. 78N-0064):			
ANPR	October 10, 1978	February 7, 1979	N/A.
NPR	August 20, 1982	October 19, 1982	October 20, 1983.
(5) Boil Treatment Drug Products (Docket No. 82N-0054):			
ANPR	June 29, 1982	October 27, 1982	N/A.
NPR	January 26, 1988	March 28, 1988	March 27, 1989.
(6) Corn and Callus Remover Drug Products (Docket No. 81N-0122):			
ANPR	January 5, 1982	May 5, 1982	N/A.
NPR	February 20, 1987	April 21, 1987	April 20, 1988.
(7) Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products:			
(A) Antihistamine Drug Products (Docket No. 76N-052H):			
ANPR	September 9, 1976	January 7, 1977	N/A.
NPR	January 15, 1985	May 15, 1985	March 17, 1986.
NPR (amended)	August 24, 1987	October 23, 1987	October 25, 1988.
(B) Nasal Decongestant Drug Products (Docket No. 76N-052N):			
ANPR	September 9, 1976	January 7, 1977	N/A.
NPR	January 15, 1985	May 15, 1985	March 17, 1986.
(8) Dandruff, Seborrheic Dermatitis, and Psoriasis Drug Products (Docket No. 82N-0214):			
ANPR	December 3, 1982	May 4, 1983	N/A.
NPR	July 30, 1986	September 29, 1986	September 30, 1987.
(9) Digestive Aid Drug Products (Docket No. 81N-0106):			
ANPR	January 5, 1982	July 5, 1982	N/A.
NPR	January 29, 1988	March 29, 1988	March 29, 1989.
(10) Exocrine Pancreatic Insufficiency Drug Products (Docket No. 79N-0379):			
ANPR	December 21, 1979	May 21, 1980	N/A.
NPR	November 8, 1985	January 7, 1986	January 8, 1987.
(11) External Analgesic Drug Products:			
(A) Analgesic and Anesthetic Drug Products (Docket No. 78N-0301):			
ANPR	December 4, 1979	April 3, 1980	N/A.
NPR	February 8, 1983	April 11, 1983	April 9, 1984.
(B) Male Genital Desensitizer Drug Products (Docket No. 78N-0301):			
ANPR	September 7, 1982	January 5, 1983	N/A.
NPR	October 2, 1985	December 2, 1985	December 2, 1986.
(12) Ingrown Toenail Relief Drug Products (Docket No. 80N-0348):			
ANPR	October 17, 1980	February 16, 1981	N/A.
NPR	September 3, 1982	November 2, 1982	November 3, 1983.
(13) Laxative Drug Products (Docket No. 78N-036L):			
ANPR	March 21, 1975	July 19, 1975	N/A.
NPR	January 15, 1985	May 15, 1985	March 17, 1986.
NPR (amended—bulk laxatives)	October 1, 1986	December 1, 1986	December 1, 1987.
(14) Nailbiting and Thumbsucking Deterrent Drug Products (Docket No. 80N-0146):			
ANPR	October 17, 1980	February 16, 1981	N/A.
NPR	September 3, 1982	November 2, 1982	November 3, 1983.
(15) Oral Health Care Drug Products (Docket No. 81N-0033):			
ANPR	May 25, 1982	September 22, 1982	N/A.
NPR (nonantimicrobial ingredients)	January 27, 1988	May 26, 1988	March 27, 1989.

TABLE I.—OTC DRUG RULEMAKINGS COVERED BY THIS NOTICE—Continued

Rulemaking	Publication date	Comment closing date	New data closing date
(16) Topical Otic Drug Products for the Prevention of Swimmer's Ear (Docket No. 77N-334S):			
ANPR	December 16, 1977	April 14, 1978	N/A.
NPR	July 30, 1986	September 29, 1986	September 30, 1987.
(17) Poison Treatment Drug Products (Docket No. 81N-0050):			
ANPR	March 21, 1975	July 19, 1985	N/A.
NPR	September 5, 1978	October 5, 1978	N/A.
NPR (reproposal)	January 15, 1985	May 15, 1985	May 15, 1985.
(18) Skin Bleaching Drug Products (Docket No. 78N-0065):			
ANPR	November 3, 1978	March 5, 1979	N/A.
NPR	September 3, 1982	November 2, 1982	November 3, 1983.
(19) Skin Protectant Drug Products (Docket No. 78N-0021):			
ANPR	August 4, 1978	December 4, 1978	N/A.
NPR	February 15, 1983	April 18, 1983	April 16, 1984.
(20) Smoking Deterrent Drug Products (Docket No. 81N-0027):			
ANPR	January 5, 1982	May 5, 1982	N/A.
NPR	July 3, 1985	September 3, 1985	September 3, 1986.
(21) Wart Remover Drug Products (Docket No. 80N-0238):			
ANPR	October 3, 1980	February 2, 1981	N/A.
NRP	September 3, 1982	November 2, 1982	November 3, 1983.
NPR (amended)	March 27, 1987	May 26, 1987	May 27, 1988.

ANPR = Advance Notice of Proposed Rulemaking.
NPR = Notice of Proposed Rulemaking.
N/A = Not Applicable.

I. OTC Drug Category II and III Ingredients

Based on the criteria discussed above, FDA is proposing that the following ingredients are not generally recognized as safe and effective and are misbranded when labeled as OTC drugs for the following uses:

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
(1) Topical acne drug products		
Alcloxa	II	II
Alkyl isoquinolinium bromide.	II	II
Aluminum chlorohydrex	II	II
Aluminum hydroxide	II	II
Benzocaine	II	II
Benzoic acid	II	II
Boric acid	II	II
Calcium polysulfide	II	II
Calcium thiosulfate	II	II
Camphor	II	II
Chlorhydroxyquinoline	II	II
Chloroxylenol	II	II
Coal tar	II	II
Dibenzothiophene	II	II
Estrone	II	II
Magnesium aluminum silicate.	II	II
Magnesium sulfate	II	II
Phenol	II	II
Phenolate sodium	II	II
Phenyl salicylate	II	II
Pyrilamine maleate	II	II
Resorcinol (as single ingredient).	II	II
Resorcinol monoacetate (as single ingredient).	II	II
Sodium borate	II	II
Sodium thiosulfate	II	II

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE—Continued

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
Tetracaine hydrochloride	II	II
Vitamin E	II	II
Zinc oxide	II	II
Zinc stearate	II	II
Zinc sulfide	II	II
Povidone iodine	III	III
Salicylic acid (over 2 up to 5 percent).	III	III
Thymol	II	III
(2) Anticaries drug products		
Acidulated sodium phosphate.	II	II
Sodium carbonate	II	II
Sodium monofluorophosphate (6% rinse).	II	II
Sodium phosphate	II	II
Hydrogen fluoride	N/A	III
(3) Antidiarrheal drug products		
Glycine	II	II
Scopolamine hydrobromide.	II	II
Aluminum hydroxide	III	III
Atropine sulfate	III	III
Calcium carbonate	III	III
Carboxymethylcellulose	III	III
Homatropine methylbromide.	III	III
Hyoscyamine sulfate	III	III
Lactobacillus acidophilus	III	III
Lactobacillus bulgaricus	III	III
Opium, powdered	I	III
Opium tincture	I	III
Paregoric	I	III
Phenyl salicylate	III	III
Zinc phenolsulfonate	III	III
(4) Antiperspirant drug products		
Aluminum bromohydrate	II	II
Aluminum chloride (alcoholic solutions).	II	II
Alum, potassium	III	III

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE—Continued

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
Aluminum chloride (aqueous solution) (aerosol only).	III	III
Aluminum sulfate	III	III
Aluminum sulfate, buffered (aerosol only).	III	III
Sodium aluminum chlorohydroxy lactate.	III	III
(5) Boil treatment drug products		
Aminacrine hydrochloride	II	II
Bismuth subnitrate	II	II
Calomel	II	II
Cholesterol	II	II
Ergot fluidextract	II	II
Hexachlorophene	II	II
Ichthamol	II	II
Isobutamben	II	II
Lanolin	II	II
Menthol	II	II
Methyl salicylate	II	II
Oxyquinoline sulfate	II	II
Petrolatum	II	II
Pine tar	II	II
Rosin	II	II
Rosin cerate	II	II
Sassafras oil	II	II
Thymol	II	II
Zinc oxide	II	II
Camphor	II	III
Juniper tar	II	III
Magnesium sulfate	II	III
Phenol	II	III
Sulfur	N/A	III
(6) Corn and callus remover drug products		
Acetic acid, glacial	II	II
Allantoin	II	II
Ascorbic acid	II	II
Belladonna alkaloids	II	II
Chlorobutanol	II	II
Diperodon hydrochloride	II	II
Ichthammol	II	II

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE—Continued

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
Iodine	II	II
Methylbenzethonium	II	II
Methyl salicylate	II	II
Panthenol	II	II
Phenyl salicylate	II	II
Vitamin A	II	II
Phenoxyacetic acid	III	III
Zinc chloride	III	III
(7) Cold, cough, allergy, bronchodilator and anti-asthmatic drug products		
(A) Antihistamine drug products		
Methapyrilene hydrochloride.	I	II
Methapyrilene fumarate	I	II
Thenyldiamine	III	III
(B) Nasal decongestant drug products		
Allyl isothiocyanate	II	II
Turpentine oil	II	II
Camphor (lozenge)	III	III
Creosote, beechwood (oral).	III	III
Eucalyptol (lozenge)	III	III
Eucalyptol (mouthwash)	III	III
Eucalyptus oil (lozenge)	III	III
Eucalyptus oil (mouthwash).	III	III
Menthol (mouthwash)	III	III
Peppermint oil (mouthwash).	III	III
Thenyldiamine	III	III
Thymol	III	III
Thymol (lozenge)	III	III
Thymol (mouthwash)	III	III
(8) Dandruff/seborrheic dermatitis/psoriasis drug products		
Boric acid	II	II
Colloidal oatmeal	II	II
Cresol saponated	II	II
Mercury oleate	II	II
Resorcinol	II	II
Sodium borate	II	II
Alkyl isoquinolinium	III	III
Allantoin	III	III
Benzalkonium chloride	III	III
Benzethonium chloride	III	III
Calcium undecylenate	III	III
Captan	III	III
Chloroxylenol	III	III
Ethohexadiol	III	III
Eucalyptol	III	III
Juniper tar	III	III
Lauryl isoquinolinium	III	III
Menthol	III	III
Methylbenzethonium	III	III
Methyl salicylate	III	III
Phenol	III	III
Phenolate sodium	III	III
Pine tar	III	III
Povidone-iodine	III	III
Sodium salicylate	III	III
Thymol	III	III
Undecylenic acid	III	III
(9) Digestive aid drug products		
Bismuth sodium tartrate	II	II
Cellulase	II	II
Dehydrocholic acid	II	II
Duodenal substance	II	II
Garlic, dehydrated	II	II
Glutamic acid	II	II
Homatropine	II	II

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE—Continued

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
Ox bile extract	II	II
Pancreatin	II	II
Pancrelipase	II	II
Papain	II	II
Pepsin	II	II
Sorbitol	II	II
Calcium carbonate	III	III
Dihydroxyaluminum	III	III
Hemicellulase	III	III
Magnesium hydroxide	III	III
Magnesium trisilicate	III	III
Peppermint oil	III	III
Sodium bicarbonate	III	III
Sodium citrate	III	III
(10) Exocrine pancreatic insufficiency drug products		
Hemicellulase	II	II
(11) External analgesic drug products		
(A) Analgesic and anesthetic drug products		
Chloral hydrate	II	II
Methapyrilene hydrochloride.	I	II
Aspirin	III	III
Chlorobutanol	III	III
Cyclomethycaine sulfate	III	III
Eugenol	III	III
Hexylresorcinol	III	III
Salicylamide	III	III
Thymol	III	III
(B) Counterirritant drug products		
Chloral hydrate	II	II
Eucalyptus oil	III	III
(C) Male genital desensitizer drug products		
Benzyl alcohol	II	II
Camphorated metacresol	NA	II
Ephedrine hydrochloride	II	II
(12) Ingrown toenail relief drug products		
Chloroxylenol	II	II
Urea	II	II
(13) Laxative drug products		
(A) Bulk laxatives		
Carrageenan (degraded)	II	II
Agar	III	III
Carrageenan (native)	III	III
Guar gum	III	III
(B) Saline laxative		
Tartaric acid	III	III
(C) Stool softener		
Poloxamer 188	III	III
(D) Stimulant laxatives		
Calomel	II	II
Colocynth	II	II
Elaterin resin	II	II
Gamboge	II	II
Ipomea	II	II
Jalap	II	II
Podophyllum resin	II	II
Aloin	III	III
Bile salts/acids	III	III
Calcium pantothenate	III	III
Frangula	III	III
Ox bile	III	III
Prune concentrate	III	III
Prune powder	III	III
Rhubarb, Chinese	III	III
Sodium oleate	III	III
(14) Nailbiting and thumbsucking deterrent drug products		
Denatonium benzoate	III	III

TABLE II.—INGREDIENTS COVERED BY THIS NOTICE—Continued

Rulemaking	Ingredient classification	
	ANPR	NPR (TFM)
(15) Oral health care drug products (nonantimicrobial)		
Antipyrine	II	II
Camphor	II	II
Cresol	II	II
Dibucaine	II	II
Dibucaine hydrochloride	II	II
Lidocaine	II	II
Lidocaine hydrochloride	II	II
Myrrh tincture	II	II
Pyrilamine maleate	II	II
Tetracaine	II	II
Tetracine hydrochloride	II	II
Eucalyptol	III	III
Methyl salicylate	III	III
Sorbitol	N/A	III
Sugars	N/A	III
Thymol	III	III
(16) Topical OTIC drug products for the prevention of swimmer's ear		
Acetic acid	N/A	III
Glycerin, anhydrous	N/A	III
(17) Poison treatment drug products		
Ipecac fluidextract	II	II
Ipecac tincture	II	II
Zinc sulfate	II	II
(18) Skin bleaching drug products		
Mercury, ammoniated	II	II
(19) Skin protectant drug products		
Sulfur	II	II
Tannic acid	II	II
Allantoin	III	III
Zinc acetate	III	III
(20) Smoking deterrent drug products		
Clove	II	II
Coriander	II	II
Eucalyptus oil	II	II
Ginger Jamaica	II	II
Lemon oil, terpeneless	II	II
Licorice root extract	II	II
Menthol	II	II
Methyl salicylate	II	II
Quinine ascorbate	II	II
Silver nitrate	II	II
Thymol	II	II
(21) Wart remover drug products		
Benzocaine	II	II
Camphor	II	II
Castor oil	II	II
Iodine	II	II
Menthol	II	II
Acetic acid	III	III
Acetic acid, glacial	III	III
Ascorbic acid	III	III
Calcium pantothenate	III	III

II. The Agency's Tentative Conclusions on Certain OTC Drug Category II, and III Ingredients

The agency has determined that no substantive comments or additonal data have been submitted to the OTC drug review to support any of the ingredients listed above as being generally

recognized as safe and effective for the OTC drug uses specified in the table (Table II). Based on the agency's procedural regulations (21 CFR 330.10(a)(7)(ii)), the agency has determined that these ingredients should be found to be not generally recognized as safe and effective for OTC use before a final monograph for each respective drug category is established. Accordingly, any drug product containing any of these ingredients and labeled for the OTC use identified above will be considered nonmonograph and misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352) and a new drug under section 201(p) of the act (21 U.S.C. 321(p)) for which an approved application under section 505 of the act (21 U.S.C. 355) and 21 CFR part 314 of the regulations is required for marketing. As an alternative, where there are adequate data establishing general recognition of safety and effectiveness, such data may be submitted in a citizen petition to amend the appropriate monograph to include any of the above ingredients in OTC drug products. (See 21 CFR 10.30.) Any OTC drug product containing any of the above ingredients and labeled for the use identified above initially introduced or initially delivered for introduction into interstate commerce after the effective date of a final rule in this proceeding to remove these Category II and III ingredients from the market and that is not the subject of an approved application will be in violation of sections 502 and 505 of the act (21 U.S.C. 352 and 355) and, therefore, subject to regulatory action. Further, any OTC drug product subject to the final rule that is repackaged or relabeled after the effective date of the rule would be required to be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

The agency has examined the economic consequences of this proposed rulemaking. The agency invited public comment in the notices of proposed rulemaking listed in Table I above regarding any impact that those rulemakings would have on drug products containing the above specified OTC drug ingredients. No comments on economic impacts were received. Moreover, manufacturers of products containing these ingredients have not provided any substantive data to support their continued marketing. Accordingly the agency concludes that there is no basis for the continued marketing of these ingredients for the indications listed in Table II above. Further, there are proposed monograph ingredients which manufacturers can use to reformulate affected products. In many instances, manufacturers have already reformulated their products to include monograph ingredients. As a result of this proposal, manufacturers may need to reformulate some products prior to promulgation of the applicable final monograph. However, there will be no additional costs because reformulation will be required, in any event, when the final monograph is published.

Early finalization of the nonmonograph status of the ingredients listed in this notice will benefit both consumers and manufacturers. Consumers will benefit from the early removal from the marketplace of ingredients for which safety and effectiveness have not been established. This will result in a direct economic savings to consumers. Manufacturers will benefit from being able to use alternative ingredients that have been found to be generally recognized as safe and effective without incurring additional expense of clinical testing for these ingredients. Based on the above, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by July 16, 1990. Such comments should be submitted to the Dockets Management Branch (address above) and identified with the docket number found in brackets in the heading of this document and not to the docket numbers appearing in Table I above. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before July 16, 1990, submit to the Dockets Management Branch (address above) written comments, objections, or requests for oral hearing before the Commissioner on the proposed rulemaking. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before July 16, 1990. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the appropriate docket number found in brackets in the heading of this document and not the docket numbers appearing in Table I above, and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Dated: March 31, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

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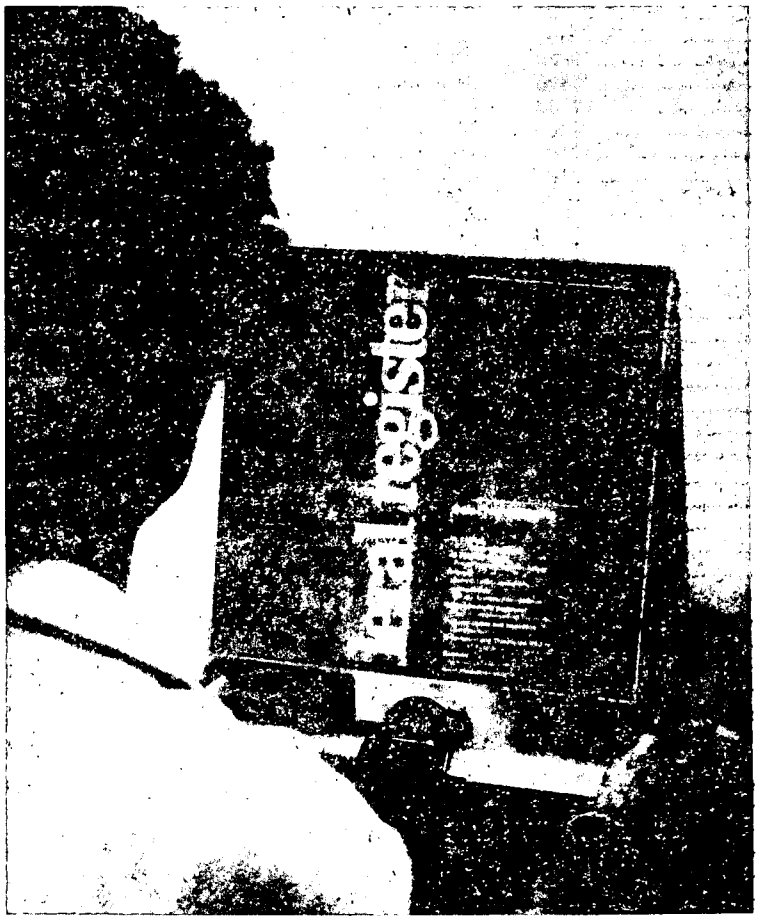

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