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Wednesday
August 8, 1990

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Presidential Documents

Title 3—

The President

Proclamation 6164 of August 4, 1990

National Agricultural Research Week, 1990

By the President of the United States of America

A Proclamation

Today fewer than one in 100 Americans are farmers. Yet these 2 million individuals produce enough food and fiber to feed and clothe our entire country—and much of the world, as well.

The continuing success of American agriculture depends on the ingenuity and hard work of our farmers and on the cooperation of all those who help to bring crops from the field to the table. Viewed in its broadest sense, agriculture is one of our Nation's largest employers: the storage, transportation, processing, distribution, and merchandising of U.S. agricultural products employ approximately nine other workers for every farmer or rancher. In all, well over 20 million people earn their living in farming and agriculture-related industries.

Among the unsung heroes of our Nation's agricultural success story are the many individuals who conduct agricultural research. Scientific research in agriculture is not a new phenomenon in the United States. In fact, a fruitful tradition of agricultural research and discovery was established on these shores long before Thomas Jefferson made his careful studies in horticulture and farming at Monticello. The earliest colonists in North America had to learn how to farm all over again on unfamiliar soil in an unfamiliar climate; but learn they did, as have generations of Americans ever since. A look at our Nation's history illustrates how agricultural research has not only paralleled, but, in large part, promoted, the steady growth of the United States.

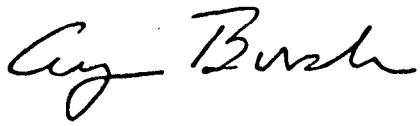
Agricultural research has enabled farmers to produce a greater variety of food, and it has enabled them to farm more efficiently. The scientific and technological advances made possible through agricultural research have not only increased the amount and the safety of our food supply, but also enhanced the economic well-being of farmers and rural communities. Today agricultural research plays a vital role in maintaining the competitiveness of U.S. agriculture in the world marketplace. It is also helping our farmers to protect our natural resource base in order to sustain its productive capacity for future generations.

The chief beneficiaries of these achievements in agricultural research are American consumers. Thanks to the many scientific and technological advances research has generated, we enjoy a rich array of foods, fiber, and forest products that are unsurpassed in availability, affordability, and safety. In addition to helping our farmers produce a variety of high-quality foodstuffs and other goods, agricultural research is pointing the way to new and alternative uses for agricultural products. This week, we gratefully acknowledge the importance of agricultural research in keeping our families fit and healthy and our Nation strong and prosperous.

The Congress, by House Joint Resolution 548, has designated the week of August 19 through August 25, 1990, as "National Agricultural Research Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of August 19 through August 25, 1990, as National Agricultural Research Week. I encourage the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of August, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-18733
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Billing code 3195-01-M

Presidential Documents

Proclamation 6165 of August 6, 1990

Voting Rights Celebration Day, 1990

By the President of the United States of America

A Proclamation

When the Voting Rights Act was signed into law a quarter of a century ago, our Nation took an important step toward fulfilling its promise of liberty, justice, and opportunity for all. Through this historic act, the Congress guaranteed the enforcement of the 15th Amendment to our Constitution—an Amendment that had been ratified almost a century earlier.

Ratified on February 3, 1870, shortly after the end of the Civil War, the 15th Amendment guarantees that the "right of citizens to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Despite the adoption of this Amendment, for the next 95 years many black Americans and others continued to be denied their right to vote through discriminatory laws and practices. For example, literacy tests required by some State and local governments deterred many blacks from voting or registering to vote. The Voting Rights Act of 1965 was designed to enforce the guarantees of the 15th Amendment by prohibiting such discriminatory tactics.

Signing the Voting Rights Act into law, President Johnson observed that "freedom and justice and the dignity of man are not just words to us. We believe in them. Under all the growth and the tumult and abundance, we believe. And so, as long as some among us are oppressed—and we are part of that oppression—it must blunt our faith and sap the strength of our high purpose." Because America's promise of liberty and equal opportunity for all is not an empty one, the adoption of the Voting Rights Act marked an important victory not only for black Americans, but also for our entire Nation.

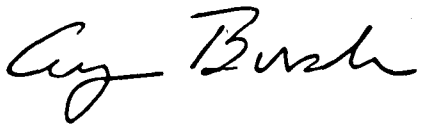
President Johnson also observed that the Voting Rights Act brought "an important instrument of freedom" into the hands of millions of our citizens. "But that instrument must be used," he noted. It was a firm yet gentle reminder that all Americans would do well to heed today.

Millions of people around the world have struggled to gain the right to vote, a right that is at the heart of freedom and self-government. Many have died for it. We must not fail to be inspired by their sacrifice, and we must never underestimate the importance of a single vote. Every American who is old enough to vote should register to do so. He or she should strive to become more fully informed about issues and candidates and faithfully exercise his or her right to participate in the electoral process. By employing the "instrument of freedom" protected by the Constitution and the Voting Rights Act of 1965, each of us can help build a brighter future for ourselves and for generations yet unborn.

In commemoration of the 25th anniversary of the Voting Rights Act of 1965, the Congress, by House Joint Resolution 625, has designated August 6, 1990, as "Voting Rights Celebration Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim August 6, 1990, as Voting Rights Celebration Day. On this occasion, as we commemorate the 25th anniversary of the Voting Rights Act of 1965, let us reflect upon the importance of exercising our right to vote and renew our determination to uphold America's promise of equal opportunity for all.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of August, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



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Rules and Regulations

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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.
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-144]

Mediterranean Fruit Fly; Removal of a Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing an area in Dade County, Florida, from the list of quarantined areas. We have determined that the Mediterranean fruit fly has been eradicated from the quarantined area in Dade County, Florida, and that the restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from this area.

DATES: Interim rule effective August 3, 1990. Consideration will be given only to comments received on or before October 9, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-144. Comments received may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly regulations (7 CFR 301.78 *et seq.*; referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly into noninfested areas.

We established in the Mediterranean fruit fly regulations and quarantined an area in California in August 1989. Circumstances have compelled us to make a series of amendments to these regulations, in the form of interim rules, in an effort to prevent the further spread of the Mediterranean fruit fly.

In an interim rule effective May 25, 1990, and published in the **Federal Register** on June 1, 1990 (55 FR 22319-22320, Docket Number 90-072), we quarantined a portion of Dade County in Florida, near Miami, Coral Gables, Hialeah and Miami Springs, because of the Mediterranean fruit fly.

Based on trapping surveys by inspectors of Florida State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Mediterranean fruit fly has been eradicated from Dade County, Florida. The last finding of the Mediterranean fruit fly in this area was made on May 21, 1990. Since then, no evidence of infestations have been found in the area. We have determined that infestations no longer exist in Dade County, Florida. Therefore, we are removing the quarantined area in Dade County, Florida, from the list of areas in § 301.78.3(c) quarantined because of the Mediterranean fruit fly. With the removal of Dade County there are no quarantined areas in Florida.

The quarantined areas in California remain infested with Mediterranean fruit fly.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. The area in Dade County, Florida, was quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of the area in Dade County would impose unnecessary regulatory restrictions on the public, we have taken immediate action to remove these restrictions.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from a portion of Dade County, Florida. Within the regulated area there are approximately 196 entities that could be affected, including fruit stands at Miami International Airport, 48 fruit/produce market, 40 mobile fruit vendors, 90 nurseries, 1 farmers wholesale market, 19 lawn maintenance companies, and 2 garbage transfer stations.

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, on these these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

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

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.78-3 [Amended]

2. In § 301.78–3, paragraph (c) is amended by removing the entry for the State of Florida.

Done in Washington, DC, this 3rd day of August 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–18532 Filed 8–7–90; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 90-151]

Mediterranean Fruit Fly; Removal from the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing from the list of quarantined areas in California a portion of the quarantined area comprised of portions of Los Angeles County, Orange County and San Bernardino County; a separate area in San Bernardino County; and the area in Riverside County. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that the restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

DATES: Interim rule effective August 3, 1990. Consideration will be given only to comments received on or before October 9, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–151. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestation can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*; referred to below as the regulations), in a document effective August 23, 1989, and published in the **Federal Register** on August 29, 1989 (54 FR 35629–35635, Docket Number 89–146). Circumstances have compelled us to make a series of amendments to these regulations, in the form of interim rules, in an effort to prevent the further spread of the Mediterranean fruit fly. Amendments affecting California were made effective on September 14, October 11, November 17, and December 7, 1989; and on January 3, January 25, February 16, March 9, May 9, and June 1, 1990 (54 FR 38643–38645, Docket Number 89–169; 54 FR 42478–42480, Docket Number 89–182; 54 FR 48571–48572, Docket Number 89–202; 54 FR 51189–51191, Docket Number 89–206; 55 FR 712–715, Docket Number 89–212; 55 FR 3037–3039, Docket Number 89–227; 55 FR 6353–6355, Docket Number 90–014; 55 FR 9719–9721, Docket Number 90–031; 55 FR 19241–19243, Docket Number 90–050; and 55 FR 22320–22323, Docket Number 90–081).

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Medfly has been eradicated from a portion of the quarantined area comprised of portions of Los Angeles, Orange and San Bernardino Counties, near Garden Grove and Sylmar; a separate portion of San Bernardino County near the city of San Bernardino; and the area in Riverside County, California. The last finding of the Medfly was made on November 5, 1989, in the Sylmar area; January 10, 1990, in the Garden Grove area; April 12, 1990, in Riverside County; and April 25, 1990, in the San Bernardino City area. Since then, no evidence of infestations have been found in these areas. We have determined that the Medfly no longer exists in these areas. Therefore, we are removing a portion of the quarantined area in Los Angeles, Orange, and San Bernardino Counties; a separate portion of San Bernardino County; and the area in Riverside County in California from the list of areas in § 301.78.3(c) quarantined because of the Mediterranean fruit fly. A description of

the areas that remain quarantined is set forth in full in the rule portion of this document. The quarantined area in Santa Clara County, California, is not affected by this rule.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, we have taken immediate action to remove restrictions from the noninfested areas.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles, Orange, San Bernardino, and Riverside Counties in California. Within the regulated area there are approximately 796 entities that could be affected, including 480 fruit/produce vendors, 122 yard maintenance firms, 119 nurseries, 12 community gardens, 8 fruit processors, 29 flea markets and 26 other entities.

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any on these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

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

Paperwork Reduction Act

The regulations in this subpart contain no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.78–3, paragraph (c), is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

California

Los Angeles, Orange, and San Bernardino Counties

That portion of the counties in the San Fernando Valley, San Gabriel Valley, Rancho Cucamonga, Ontario, Brea and Los Angeles areas bounded by a line drawn as follows: Beginning at the intersection of State Highway 30 and Towne Avenue; then southerly along this avenue to its intersection with State Highway 60; then westerly along this highway to its intersection with the Los Angeles-San Bernardino County line; then southerly and westerly along this county line to its intersection with the Los Angeles-Orange County line; then westerly along this county line to its intersection with State Highway 57; then southerly along this highway to its intersection with Lincoln Avenue; then westerly along this avenue to its intersection with Carson Street; then westerly along this street to its intersection with Lakewood Boulevard; then northerly along this boulevard to its intersection with Del Amo Boulevard; then westerly along this boulevard to its intersection with Downey Avenue; then northerly along this avenue to its intersection with Artesia Boulevard; then westerly along this boulevard to its intersection with State Highway 91; then westerly along this highway to its intersection with Wilmington Avenue; then southerly along this avenue to its intersection with University Drive; then westerly along this drive to its intersection with Avalon Boulevard; then southerly along this boulevard to its intersection with 192nd Street; then westerly along this street to its intersection with Main Street; then southwesterly along this street to its intersection with Interstate Highway 405; then northwesterly along this highway to its intersection with Prairie Avenue; then northerly along this avenue to its intersection with Florence Avenue; then easterly along this avenue to its intersection with Vermont Avenue; then northerly along this avenue to its intersection with Slauson Avenue; then easterly along this avenue to its intersection with Central Avenue; then northerly along this avenue to its intersection with 41st Street; then easterly along this street to its intersection with 38th Street; then easterly along this street to its intersection with 37th Street; then easterly along this street to its intersection with Soto Street; then northeasterly along this street to its intersection with Whittier Boulevard; then westerly along this boulevard to its intersection with 6th Street; then northwesterly along this street to its intersection with Broadway; then southwesterly along Broadway to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with Interstate Highway 110; then southerly along this highway to its intersection with Vernon Avenue; then westerly along this avenue to its intersection

with Crenshaw Boulevard; then northwesterly along this boulevard to its intersection with Stocker Street; then southwesterly along this street to its intersection with La Cienega Boulevard; then northerly along this boulevard to its intersection with Rodeo Road; then westerly along this road to its intersection with Washington Boulevard and Robertson Boulevard; then northwesterly along Robertson Boulevard to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with Motor Avenue; then northerly along this avenue to its intersection with Poco Boulevard; then northeasterly along this boulevard to its intersection with Beverly Drive; then northerly along this drive to its intersection with Wilshire Boulevard; then easterly along this boulevard to its intersection with Doheny Drive; then northerly along this drive to its intersection with Sunset Boulevard; then northeasterly and easterly along this boulevard to its intersection with Fairfax Avenue; then northerly along this avenue to its intersection with Hollywood Boulevard; then easterly along this boulevard to its intersection with Highland Avenue; then northerly along this avenue to its intersection with U.S. Highway 101; then northwesterly along this highway to its intersection with Interstate Highway 405; then northerly along this highway to its intersection with Victory Boulevard; then westerly along this boulevard to its intersection with Balboa Boulevard; then northerly along this boulevard to its intersection with State Highway 118; then easterly along this highway to its intersection with Foothill Boulevard; then southerly along this boulevard to its intersection with Maclay Avenue; then northeasterly along this avenue to its intersection with Interstate Highway 210; then southeasterly along this highway to its intersection with Paxton Street; then northeasterly along this street to its intersection with the Los Angeles city limits; then northerly, easterly, and southerly along the Los Angeles city limits to its intersection with the Glendale city limits; then southerly along the Glendale city limits to its intersection with the Angeles National Forest boundary; then easterly, southerly, and easterly along this boundary to its intersection with the Pasadena city limits; then northerly, easterly, and southerly along the Pasadena city limits to its intersection with the Angeles National Forest boundary, then southerly and easterly along this boundary to its intersection with the Sierra Madre city limits; then northerly and easterly along the Sierra Madre city limits to its intersection with the Arcadia city limits; then easterly along the Arcadia city limits to its intersection with the Monrovia city limits; then northerly and easterly along the Monrovia city limits to its intersection with the Duarte city limits; then easterly and southerly along the Duarte city limits to its intersection with the Azusa city limits; then easterly and southerly along the Azusa city limits; then easterly and southerly along the Azusa city limits to its intersection with the Glendora city limits; then northerly and easterly along the Glendora city limits to its intersection with the San Dimas city limits; then easterly and southerly along the San Dimas city limits to its intersection with the Angeles National Forest boundary; then easterly along this boundary to its intersection with the La Verne city limits; then northerly, easterly, and southerly along the La Verne city limits to its intersection with the Angeles National Forest boundary; then easterly along this boundary to its intersection with San Bernardino National Forest boundary; then easterly along this boundary to its intersection with Rancho Cucamonga city limits; then easterly along the city limits to its boundary with the San Bernardino National Forest boundary; then southerly and easterly along the boundary to its intersection with Rochester Avenue; then southerly along this avenue to its intersection with 8th Street; then westerly along this street to its intersection with Miliken Avenue; then southerly along this avenue to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with Holt Boulevard; then westerly along this boulevard to its intersection with Grove Avenue; then southerly along this avenue to its intersection with Philadelphia Street; then westerly along this street to its intersection with Towne Avenue; then southerly along this avenue to the point of beginning.

Santa Clara County

That portion of the county in the Mountain View area bounded by a line drawn as follows: Beginning at the intersection of State Highway 237 and Lawrence Expressway; then southerly along this expressway to its intersection with Interstate Highway 280; then northwesterly along this highway to its intersection with Page Mill Road; northeasterly along this road to its intersection with Oregon Expressway; then northeasterly along this expressway to its intersection with U.S. Highway 101; then northwesterly along this highway to its intersection with San Francisquito Creek; then northeasterly along this creek to its intersection with this San Francisco Bay shoreline; then southeasterly along this shoreline to its intersection with Guadalupe Slough; then southerly along this slough to its end; then southerly along an imaginary line drawn from the end of Guadalupe Slough to the point of beginning.

Done in Washington, DC, this 3rd day of August 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-18534 Filed 8-7-90; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 90-157]

Oriental Fruit Fly; Removal of a Portion of Los Angeles and Orange Counties From the List of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by removing a portion of Los Angeles and Orange Counties, California—near Cerritos—from the list of quarantined areas. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The effect of this action is to remove restrictions imposed by Oriental fruit fly regulations on the interstate movement of regulated articles from this formerly quarantined area.

DATES: Interim rule effective August 3, 1990. Consideration will be given only to comments received on or before October 9, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 886, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-157. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel) (Syn. *Dacus dorsalis*), is a destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. The Oriental fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops. The short life cycle of this pest permits the rapid development of serious outbreaks.

In an interim rule effective on August 15, 1989, and published in the **Federal Register** on August 21, 1989 (54 FR 34477-34483, Docket No. 89-144), we established the Oriental fruit fly regulations and quarantined an area of Los Angeles County, California, in the West Covina area. The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly into noninfested

areas of the United States. The regulations also designate soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

In another interim rule, effective September 19, 1989, and published in the **Federal Register** on September 25, 1989 (54 FR 39161–39162, Docket No. 89–170), we amended the Oriental fruit fly regulations by adding an additional portion of Los Angeles County and an adjoining portion of Orange County, California, to the list of quarantined areas. This quarantined area is known as the Cerritos area.

In an interim rule effective on October 16, 1989, and published in the **Federal Register** on October 20, 1989 (54 FR 43037–43038, Docket Number 89–186), we again amended the Oriental fruit fly regulations by removing the West Covina area in Los Angeles County, California, from the list of quarantined areas. We took this action after determining that the Oriental fruit fly had been eradicated from the West Covina area.

In an interim rule effective on October 20, 1989, and published in the **Federal Register** on October 26, 1989 (54 FR 43575–43576, Docket Number 89–187), we amended the Oriental fruit fly regulations by adding an additional portion of Los Angeles County, California—in the Elysian Park area—to the list of areas designated as quarantined areas.

In an interim rule effective on August 3, 1990, and published in the **Federal Register** on August 8, 1990 (Docket Number 90–149), we amended the Oriental fruit fly regulations by adding an additional portion of Los Angeles County, California—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—to the list of areas designated as quarantined areas.

Based on insect trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the Cerritos quarantined area in Los Angeles and Orange Counties, California. The last finding of Oriental fruit fly in this area was made on October 25, 1989.

Since then, no evidence of Oriental fruit fly infestations have been found in that area. We have determined that Oriental fruit fly infestations no longer exist in the Cerritos quarantined area of Los Angeles and Orange Counties, California. Therefore, we are removing the Cerritos area of Los Angeles and Orange Counties, California, from the list of areas quarantined because of the Oriental fruit fly.

The Elysian Park area of Los Angeles County, California, as well as the area including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts in Los Angeles County, California, remain infested with Oriental fruit fly.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. A portion of Los Angeles County, California, in the Cerritos area was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of this portion of Los Angeles County imposes an unnecessary regulatory burden on the public, we have taken immediate action to remove these restrictions.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The regulation affects the interstate movement of regulated articles from a portion of Los Angeles and Orange Counties in California, in the Cerritos area. It appears that there are approximately 90 small entities in the quarantined area that may be affected by this area. The small entities that may be affected include approximately 80 nurseries, 1 commercial grower of cucumbers and tomatoes, 1 commercial grower of Oriental persimmons, 1 community garden, 5 fruit markets, 2 farmers markets, and 1 swap meet.

These small entities comprise less than ½ of 1 percent of the total number of similar enterprises operating in California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate movement. Also, many of the nurseries sell other items in addition to the regulated articles so that the effect, if any, of the quarantine on these entities was minimal.

The effect on those few entities that do move regulated articles interstate was minimized by the availability of various treatments specified in the regulations that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost.

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

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Oriental fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.93–3 [Amended]

2. In § 301.93–3, paragraph (c) is amended by removing the first paragraph under "California" that begins "Los Angeles County and Orange County—That portion of Los Angeles and Orange Counties in the Cerritos area * * *".

Done in Washington, DC., this 3rd day of August 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–18535 Filed 8–7–1990; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 90–149]

Oriental Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by adding an additional portion of Los Angeles County, California—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—to the list of areas designated as quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. This action imposes certain restrictions on the interstate movement of regulated articles from the quarantined areas.

DATES: Interim rule effective August 3, 1990. Consideration will be given only to comments received on or before October 9, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–149. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel) (Syn. *Dacus dorsalis*), is a destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. The Oriental fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops. The short life cycle of this pest permits the rapid development of serious outbreaks.

In an interim rule effective on August 15, 1989, and published in the **Federal Register** on August 21, 1989 (54 FR 34477–34483, Docket No. 89–144), we established the Oriental fruit fly regulations and quarantined an area of Los Angeles County, California, in the West Covina area. The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designate soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

In another interim rule, effective September 19, 1989, and published in the **Federal Register** September 25, 1989 (54 FR 39161–39162, Docket No. 89–170), we amended the Oriental fruit fly regulations by adding an additional portion of Los Angeles County and an adjoining portion of Orange County, California, to the list of quarantined areas. This quarantined area is known as the Cerritos area.

In an interim rule effective on October 16, 1989, and published in the **Federal Register** on October 20, 1989 (54 FR 43037–43038, Docket Number 89–186), we again amended the Oriental fruit fly regulations by removing the West Covina area in Los Angeles County, California, from the list of quarantined areas. We took this action after determining that the Oriental fruit fly had been eradicated from the West Covina area.

In an interim rule effective on October 20, 1989, and published in the **Federal Register** on October 26, 1989 (54 FR 43575–43576, Docket Number 89–187), we amended the Oriental fruit fly regulations by adding an additional portion of Los Angeles County, California—in the Elysian Park area—to the list of areas designated as quarantined areas.

The Oriental fruit fly has not been found in an additional area of Los Angeles County, California—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—as a result of recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

Specifically, inspectors collected 9 adult Oriental fruit flies in this area during the period of July 9 to July 12, 1990.

The regulations in § 301.93–3 provide that the Administrator of the Animal and Plant Health Inspection Service shall list as a quarantined area each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Administrator has reason to believe the Oriental fruit fly is present, or that the Administrator considers necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly occurs. Less than an entire quarantined State is designated as a quarantined area only if the Administrator determines, as in this instance, that:

(1) The State has adopted and is enforcing a quarantine and regulations that impose restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed on the interstate movement of these articles; and

(2) The designation of less than the entire State as a quarantined area will otherwise be adequate to prevent the artificial interstate spread of the Oriental fruit fly.

Accordingly, we are amending the regulations by designating an additional portion of Los Angeles County, California—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—as a quarantined area. The exact description of the newly regulated area can be found in the rule portion of this document.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Oriental fruit fly from

spreading into noninfested areas of the United States.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order, 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation affects the interstate movement of regulated articles from a portion of Los Angeles County, California. The small entities that may be affected by the regulation are approximately 120 fruit/produce markets, 20 nurseries, and 146 retail fruit/produce vendors. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

It appears that most of these small entities sell regulated articles primarily for local intrastate, not interstate markets. The sale of these articles would therefore remain unaffected by the regulaory provisions we are issuing. Also, many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities will be minimal.

The effect of this regulation on those entities that do move regulated articles interstate will be minimized by the availability of various treatments specified in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations. The specified treatments, in most cases, will allow these small entities to move regulated articles interstate with very little addition cost.

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

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subject in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Oriental fruit fly, Plant diseases, Plant pests, Plant (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.93–3, paragraph (c), the heading "*Los Angeles County*—" is revised to read "*Los Angeles County*—1." and a new paragraph 2. is added to Los Angeles County, to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) * * *

California

* * * * *

2. That portion of the county—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 110 and Gage Avenue; then easterly along this avenue to its intersection with Garfield Avenue; then southerly along this avenue to its intersection with Florence Avenue; the southeasterly along this avenue to its intersection with Lakewood Boulevard; then southwesterly along this boulevard to its intersection with Firestone Boulevard; then southeasterly along this boulevard to its intersection with Woodruff Avenue; then southerly along this avenue to its intersection with Del Amo Avenue; then westerly along this avenue to its intersection with Avalon Boulevard; then northerly along this boulevard to its intersection with State Highway 91 (Redondo Beach Freeway); then westerly along this highway (freeway) to its intersection with Interstate Highway 110; the northerly along this highway to the point of beginning.

Done in Washington, DC, this 3rd day of August 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–18533 Filed 8–7–90; 8:45 am]

BILLING CODE 3410–34–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration Fees

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is deleting its § 3.3 (17 CFR 3.3 (1989)) which sets forth the fee that must accompany an application for registration as a floor broker. In lieu thereof, the National Futures Association ("NFA") has established a fee for floor broker registration applications, subject to Commission review and approval. The Commission's rule amendment will conform the treatment of the fee for a floor broker registration application to that applicable to other applicants for registration under the Commodity Exchange Act ("Act"), *i.e.*, such fee is set for NFA under Commission oversight. The rule amendment also simplifies the process of adjustment of the floor broker registration fee by eliminating the need for both NFA and the Commission to amend their rules to allow such an adjustment.

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Floor Broker Registration Fee

The Commission has previously authorized NFA to perform registration functions with respect to futures commission merchants ("FCMs"),

introducing brokers ("IBs"), commodity pool operators ("CPOs"), commodity trading advisors ("CTAs"), leverage transaction merchants ("LTMs"), associated persons ("APs") of any of the foregoing entities, and floor brokers.[1] As NFA has been authorized to perform the function of processing and, where appropriate, granting registration in various registrant categories, the Commission has generally amended § 3.3 to delete the fee applicable to applications for registration in particular registrant categories. *See* 48 FR 34732, 34734 (August 1, 1983) (IBs and APs of IBs); 49 FR 39518, 39530 (October 9, 1984) (FCMs, CPOs, CTAs and APs thereof); 54 FR 19556, 19558 (May 8, 1989) (LTMs and APs of LTMs). Concurrently with those Commission rule amendments, NFA has adopted rules, subject to Commission review and approval, setting forth fees to accompany applications for registration. *See* NFA rule 203. However, NFA has not previously established a fee for an applicant for registration as a floor broker and the Commission has, consequently, previously retained that provision of Commission rule 3.3 governing such a fee.

NFA recently adopted an amendment to its rule 203 establishing a fee that must accompany an application for registration as a floor broker. The Commission has separately approved the amendment to NFA rule 203, which now sets forth a fee to accompany a registration application for each registrant category.

The Commission believes that it is appropriate for NFA to establish such fees and to adjust them if necessary, subject to Commission review and approval. NFA processes all of the applications for registration under the Act and it is therefore in the best position to determine the costs associated with performing that function and whether such costs necessitate an adjustment in fees. The Commission further believes that since NFA has now adopted a rule with respect to the fee to accompany an application for registration as a floor broker, it would be an inappropriate use of regulatory resources to retain Commission Rule 3.3 and thereby require an amendment not only of an NFA rule but a Commission rule as well whenever an adjustment in the floor broker registration fee is necessary. The Commission, of course, will retain oversight of NFA's registration program and authority to review and approve any proposal by NFA to adjust registration application fees to assure that such fees do not exceed actual costs of performing the processing function.

The Commission also notes that the NFA fee for floor broker registration will be $30, an increase of $5 from the $25 fee provided for under Commission Rule 3.3, which was adopted in 1983. We believe such an increase is justified. When NFA was authorized to process applications for floor broker registration in 1986, the Federal Bureau of Investigation ("FBI") charged $12 per fingerprint card as a processing fee. The FBI increased that charge to $14 in 1987 and raised it to $20 as of March 1, 1990. The $5 increase in the floor broker registration application fee, therefore, does not even cover the total increase in the FBI's fingerprint processing charge since 1987.

II. Other Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act [2] requires that agencies, in adopting rules, consider the impact of those rules on small entities. The Commission has determined that, to the extent that floor brokers can be considered "small entities," the economic effect of the Commission rule amendment combined with the amendment to NFA Rule 203, a $5 increase in the registration application fee, is not significant. The Commission made a similar determination the last time the floor broker registration fee was increased by $5.[3] Therefore, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule amendment discussed herein will not have a significant impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In reviewing this final rule, the Commission has determined that it does not impose any information collection requirements as defined by the PRA.

Persons wishing to comment on this determination of no information collection burden should contact Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581; and The Office of Management and Budget, Paperwork Reduction Project (3038–XXXX), Washington, DC 20503.

C. Waiver of Public Notice and Comment

The Commission has determined to remove § 3.3 without the opportunity for public notice and comment because it believes such procedures are impractical and unnecessary in the context of this rule change. The Commission has separately approved, pursuant to established procedures, the NFA rule setting forth a floor broker registration application fee and it would be confusing to the public to retain a Commission rule concerning such a fee that is inconsistent with the NFA rule. For similar reasons, the Commission has determined to make the removal of § 3.3 effective immediately on August 8, 1990.

List of Subjects in 17 CFR Part 3

Registration fees; administrative practice and procedure.

In consideration of the foregoing, and pursuant to the authority contained in section 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 12a (1988), the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

Subpart A—Registration

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

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12a, 13c, 16a, and 23 unless otherwise noted.

§ 3.3 [Removed and reserved]

2. Section 3.3 is removed and reserved.

[1] 48 FR 15940 (April 13, 1983) (authorizing NFA to receive and process new applications for registration as an IB or an AP of an IB); 48 FR 35158 (August 3, 1983) (authorizing NFA to grant registration for IBs and their APs); 49 FR 8226 (March 5, 1984) (authorizing NFA to process and issue temporary licenses to applicants for registration as APs of IBs); 49 FR 39593 (October 9, 1984) (authorizing NFA to process and grant applications for registration of FCMs, CPOs, CTAs and their APs and to issue temporary licenses to eligible APs); 50 FR 34885 (August 28, 1985) (authorizing NFA to deny, condition, suspend, restrict or revoke the registration of any person applying for registration or registered as an FCM, IB, CPO, CTA, or an AP of such entities); 51 FR 25929 (July 17, 1986) and 51 FR 34490 (September 29, 1986) (authorizing NFA to process and grant applications for registration as a floor broker); 51 FR 45749 (December 22, 1986) (authorizing NFA to grant temporary licenses for guaranteed IBs); 53 FR 8428 (March 15, 1988) (authorizing NFA to process withdrawals for registration); 54 FR 19594 (May 8, 1989) (authorizing NFA to process and grant applications for registration as an LTM or AP of an LTM, and to grant temporary licenses to APs of LTMs); and 54 FR 41133 (October 5, 1989) (authorizing NFA to take adverse actions against LTMs and their APs, as well as against applicants for registration in either category).

[2] 5 U.S.C. 601 *et seq.* (1988).

[3] 48 FR 34732, 34733–34 (August 1, 1983).

Issued in Washington, DC on August 2, 1990 by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 90-18502 Filed 8-7-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 556

Private Organizations on Department of the Army Installations

AGENCY: Department of the Army, DOD.

ACTION: Amendment to final rule.

SUMMARY: The Department of the Army announces an amendment to 32 CFR part 556 in order to correct the references in paragraph (c) of § 556.22.

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Kennedy, Community and Family Support Center, ATTN: CFSC-AE-P, Alexandria, VA 22331-0507, (202) 325-9370.

SUPPLEMENTARY INFORMATION: This information is to amend 32 CFR part 556, § 556.22(c) as it appeared in the **Federal Register** on 29 June 1990 (55 FR 27104).

List of Subjects in 32 CFR Part 556

Federal buildings and facilities.

32 CFR part 556 is amended as follows:

PART 556—PRIVATE ORGANIZATIONS ON DEPARTMENT OF THE ARMY INSTALLATIONS

1. The authority citation for part 556 continues to read as follows:

Authority: 10 U.S.C. 3102.

2. Section 556.22 is amended by revising paragraph (c) to read as follows:

§ 556.22 Overview.

* * * * *

(c) Under the provisions of AR 37-60, paragraphs 9-6 and 9-8, installation commanders may waive or reduce charges to nonprofit POs for any of the support elements listed in paragraph 9-3 of that publication. This applies only to support provided to a PO on an occasional or nonrecurring basis.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 90-18493 Filed 8-7-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD5 90-011]

Anchorage Ground; Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the boundaries of the Dead Ship Anchorage in Curtis Bay. The change has been requested by EA Engineering, Science, and Technology, to enable a diffuser to be placed on the ocean bottom in the southern portion of the present Dead Ship Anchorage. In addition, the northern edge of the Dead Ship Anchorage is shifting to align itself with the 600-foot wide Curtis Bay federal navigation channel.

EFFECTIVE DATE: September 7, 1990.

FOR FURTHER INFORMATION CONTACT: LT Scott Keene (804) 398-6285.

SUPPLEMENTARY INFORMATION: On Friday, March 23, 1990, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (55 FR 10787). Interested persons were requested to submit comments and three comments were received.

Drafting Information

The drafters of this notice are LT Scott Keene, project officer and LT Steven Fitten, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Comments

The Baltimore District of the Army Corps of Engineers, and Baker-Whiteley Towing Company of Baltimore submitted comments requesting that the northern edge of the Dead Ship Anchorage not be allowed to encroach within the authorized 600-foot wide Curtis Bay Channel, even though the channel has only been maintained to the 400-foot width at a dredged depth of 50 feet. Large bulk carriers transiting Curtis Bay Channel would be severely constrained if the anchorage aligned itself with the 400-foot wide channel. Based on these comments, the northern edge of the Dead Ship Anchorage will parallel the contours of the 600-foot wide channel. The Coast Guard's Marine Safety Office in Baltimore also submitted comments requesting that the primary use of the Dead Ship Anchorage be reserved for laying up dead ships, and that other vessels requesting to anchor there would be allowed, space permitting. A written permit from the Captain of the Port must be obtained prior to using the Dead Ship Anchorage for more than 72 hours. This comment has been included in the final rule. This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of part 110.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Discussions with the Association of Maryland Pilots and local tug boat companies indicate that the proposed change in boundaries will not affect the capacity of the anchorages.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, part 110 of title 33, Code of Federal Regulations is amended as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 417, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05.1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.158 paragraph (a)(8) is revised to read as follows:

§ 110.158 Baltimore Harbor, Md.

(a) * * *

(8) *Dead ship anchorage.* The waters bounded by a line connecting the following points:

Latitude	*Longitude*
39[13'00.0" N	76[34'11.5" W
39[13'13.0" N	76[34'11.9" W
39[13'13.5" N	76[34'06.8" W
39[13'14.4" N	76[33'30.9" W
39[13'00.0" N	76[33'31.0" W

and thence to the point of beginning.

Datum: NAD 27

The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. A written permit from the Captain of the Port must

be obtained prior to use of this anchorage for more than 72 hours.

* * * * *

Dated: July 23, 1990.

P.A. Welling,

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

[FR Doc. 90-18485 Filed 8-7-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 164
46 CFR Parts 31, 32, 71, 72, 91, 92, 107, 108, 189, and 190

[CGD 85-099]

RIN 2115-AC 42

Navigation Bridge Visibility; Ports and Waterway Safety

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes standards of vessel design and operation to ensure that visibility from the navigation bridge is adequate to provide for safe navigation and operation. This is necessary to address the safety problems created by blind zones due to the configuration and loading of container vessels, large tankers with aft house arrangements, and other large vessels. The intent of this rulemaking is to establish domestic regulations which enhance navigation bridge visibility and are consistent with the international guidelines published by the International Maritime Organization (IMO).

EFFECTIVE DATE: September 7, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant S.R. Godfrey, Project Manager, Office of Navigation and Waterway Services (202) 267-0362.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on March 24, 1989 (54 FR 12241). Interested parties were invited to comment. A total of 14 letters were received. The comments are discussed in a later section of this rulemaking document. No public hearing was held or requested.

Drafting Information

The principal persons involved in drafting this rulemaking are Lieutenant Steven R. Godfrey, Project Officer, Office of Navigation Safety and Waterway Services; Mr. Paul Cojeen, Office of Marine Safety, Security and Environmental Protection; and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Background

The Coast Guard became concerned about bridge visibility in the late 1960's when container vessels and larger tankers with aft house arrangements were constructed. The configuration of these vessels created a blind zone directly ahead of the vessel in which vision from the navigation bridge was obscured by the vessel's bow, permanent deck structures, or cargo containers.

Merchant Marine Technical (MMT) Note 2-67, entitled "Forward Visibility from the Navigation Bridge and Pilothouses of Vessels," was issued as an internal guide to assist the technical offices in evaluating bridge visibility during vessel construction plan review. It established a visibility criterion that the forward blind zone should not exceed 1.25 times the length of the vessel. It also recommended that bridge wings extend to the widest beam measurement of the vessel and be connected by a catwalk to the pilothouse. With regard to moveable or temporary obstructions to forward visibility, MMT Note 2-67 prescribed advisory comments to the plan submitter calling attention to the hazard. In the case of permanent obstructions to forward visibility which were not essential elements of the vessel's construction or operation, the Note suggested that withholding plan approval might be appropriate. The Coast Guard emphasized to industry that the question of adequate bridge visibility was largely an operational matter and that it was the owner's responsibility to provide tugs, lookouts, or electronic visibility aids to ensure safe operation of the vessel.

As more large containerships, tankers, and mobile offshore drilling units came into service, the Coast Guard's concern about bridge visibility increased. In June 1970, the Coast Guard published Commandant Note 5900 and added a section to the Marine Safety Manual which formally established the Coast Guard's policy regarding navigation bridge visibility. This policy cited the Coast Guard's statutory responsibility to ensure that a vessel is suited for the service intended. Under this policy, movable or temporary obstructions, such as container loading, were considered operational in nature, and the matter was simply brought to the attention of the owner or operator. For permanent obstructions, certification was withheld in cases where, in the opinion of the Officer-in-Charge, Marine Inspection (OCMI), the visibility from the navigation bridge was obstructed to the extent that the vessel could not be safely navigated. The earlier 1.25L criterion was retained and was the only quantitative guideline available to the OCMI.

The Coast Guard's policy was modified again in 1976 when a three-position test was developed to account for vessels of unusual form, such as very large crude carriers and liquified natural gas tankers. The three positions included the ship's centerline in the wheelhouse, the wheelhouse window, and the bridge wing location. This, in effect, minimized the extension of the ship's centerline into the blind zone. The three-position test introduced not only varied permissible forward extents of the blind zones, but maximum allowable widths of the blind zones. Consideration was given for the effects of draft and trim changes. Unsatisfactory conditions were brought to the attention of the plan submitter.

A regulatory effort was begun shortly after the three-position test was published. The Coast Guard published an advance notice of proposed rulemaking (ANPRM) on May 11, 1981 in the **Federal Register** (46 FR 268086). The ANPRM generated 47 comments acknowledging that bridge visibility was a problem, but recommending that the Coast Guard first pursue an international agreement at the IMO. The Coast Guard agreed to this approach and terminated proposed rulemaking by action in the **Federal Register** dated September 2, 1982 (47 FR 38707).

In January 1982, the United States, through the Coast Guard, convinced the IMO Subcommittee on Safety of Navigation to specifically address the subject of bridge visibility. A three year effort spearheaded by representatives of seven major shipping nations and five international associations, including the International Maritime Pilots Association, produced a document entitled "Draft Guidelines on Navigation Bridge Visibility." These guidelines were approved by the Subcommittee on Safety of Navigation and published in May 1985 as Maritime Safety Committee (MSC) Circular 403.

The standards for visibility from the navigation bridge added to 33 CFR part 164 in this rulemaking are derived from MSC Circular 403. The requirements are operational in nature and apply to all vessels insofar as the cargo loading and trim of vessels could be adjusted to meet or conform as closely as possible with the visibility requirements. No structural alterations are required. The regulations apply to all vessels of 1600 or more gross tons when operating in the navigable waters of the United States. This tonnage criterion is used for other operational and navigation equipment requirements in 33 CFR part 164. Since the requirement applicable to title 33, CFR are being included in the

Navigation Safety regulations of part 164, the tonnage criterion fits within the existing regulatory structure. This criterion has been chosen because the Coast Guard believes that larger vessels, particularly when navigating in confined waters, are most vulnerable to problems related to visibility and have the greatest potential to cause loss of life, injury, damage, and pollution.

The visibility standards derived from MSC Circular 403 have been added to various parts of title 46 as requirements for design and construction of new U.S. vessels contracted for on or after September 7, 1990. However, in title 46 the standard of applicability is vessels 100 meters (328 feet) or more in length. The IMO has decided on 100 meters (328 feet) as a more easily determined and universally agreeable standard of applicability for measures aided at large vessels than a tonnage criterion. The Coast Guard considers length the more appropriate criterion during the design phase to account for navigation bridge visibility. Therefore, there are requirements in each affected subchapter in title 46 to include a visibility plan as part of the design review stage. Identical text requiring a visibility plan is included in five parts of title 46. These are part 32 of subchapter D, Tank Vessels; part 72 of subchapter H, Passenger Vessels; part 92 of subchapter I, Cargo and Miscellaneous Vessels; part 108 of subchapter I–A Mobile Offshore Drilling Units; and Part 190 of subchapter U, Oceanographic Research Vessels. The standards the visibility plan are required to meet have also been included in each affected subchapter.

The introductory text in § 32.16–1 has been amended in the final rule by removing the limitation that the vessel be in ocean or coastwise service. The Coast Guard intended only that the stated length and contract date operate as applicability criteria for the bridge visibility requirements. Whether or not the vessel was in ocean or coastwise service was never intended to be a factor of applicability and the final rule has been amended to reflect that intent.

The Maneuvering Performance Standards rulemaking mentioned in the NPRM was withdrawn August 30, 1989 in the **Federal Register** (54 FR 35895). Certain of the subpart and section titles in the NPRM which referred to maneuvering performance have been amended in this rulemakiing to remove the reference. The positions that had been reserved in the NRPM for future inclusion of the maneuvering performance standards have been removed in this rulemaking. Therefore, the specific paragraph designations for some visibility plan requirements and visibility standards have been amended in this rulemaking to account for the removal of the reserved positions.

Discussion of Comments

A total of 14 letters were received. Nine comments generally supported the proposed rule but suggested that the measurement of the forward blind zone be clarified by adding the wording "forward of the bow." This wording has been added in the final rule so that from the conning position for forward blind zone cannot extend more than the lesser of two ship lengths or 500 meters (1640 feet) forward of the bow. Four comments suggested delaying this rulemaking pending adoption of a final resolution on bridge visibility guidelines by the IMO. The Coast Guard's position is that the guidelines concerning navigation bridge visibility will not substantially change in a final IMO resolution. Due to the international involvement and time taken to develop the current guidelines, they are expected to be acceptable internationally. Two comments expressed concern with the requirement that the navigation bridge be placed above all other decked structures. The comments made particular reference to passenger vessels which traditionally have observation platforms and other decks above the navigation bridge. The Coast Guard's opinion is that the purpose of this restriction is to ensure that the navigation bridge is placed high enough on the vessel to assist visibility. The visibility standards themselves should operate to ensure that visibility from the navigation bridge is adequate. Therefore, the requirement that the navigation bridge be placed above all other decked structures has been removed from the final rule. One comment indicated that the regulations were unnecessary at this time. The Coast Guard's position is that the safety benefits gained by enhancing navigation bridge visibility warrant implementing the regulations.

Discussion of Regulations

Regulations for Title 33, CFR

Part 164 in title 33, CFR is amended to include defined arcs of visibility and limitations of blind sectors. All vessels of 1600 or more gross tons are required to comply as closely as possible to the visibility requirements by their loading and arrangement of cargo and cargo gear, and trim of vessel. Structural alterations or additions of equipment are not required. The exact requirements are described in paragraphs (1) and (2) below, in the discussion of regulations for title 46.

Regulations for Title 46, CFR

Each of the affected subchapters in title 46, CFR, have sections added requiring a visibility plan complying with visibility standards. Each affected subchapter also has a section added which sets forth the visibility standards discussed in more detail below, which establishes limitations on the forward blind zone, defines the required field of vision and limitations of blind sectors, and describes requirements for bridge windows.

1. Limitations on the Forward Blind Zone

Paragraph (a)(1) of the regulation establishes the limit of the area on the surface of the water forward of a vessel which could be obscured. This limitation does not distinguish between the area obscured by the vessel's structure (such as the flare of the bow) and that obscured by cargo. Thus, the vessel's planned cargo capacity will be affected and should be considered during the design stage. From the conning position, the view of the sea surface must not be obscured forward of the bow by more than the lesser of two ship lengths or 500 meters (1640 feet). This area spans an arc of 20 degrees; 10 degrees from dead ahead on either side of the bow. In addition, any blind sector within this arc of visibility caused by cargo, cargo gear, or other permanent obstruction is limited to 5 degrees. These standards apply regardless of a vessel's draft, trim, or deck cargo arrangement.

2. Field of Vision and Blind Sectors

Paragraph (a)(2) requires the horizontal field of vision from the conning position to extend from more than 22.5 degrees abaft the beam on one side, through dead ahead, to more than 22.5 degrees abaft the beam on the other side. This field of vision coincides with the arcs of visibility of vessel navigation lights. It also establishes the limit for the area forward of the vessel's beam in which visibility could be obstructed by cargo, cargo gear, etc., and it defines the minimum horizontal arcs which must be clear.

Paragraph (a)(3) of the rule requires the field of vision from each bridge wing to extend from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern. This requirement ensures 360 degree visibility from the navigation bridge deck and establishes a minimum arc of visibility across the bow from each bridge wing.

Paragraph (a)(4) of the rule requires the arc of visibility from the main steering position to extend at least 60 degrees either side of dead ahead. Although the helmsman may not act as the lookout required by the Rules of the Road, a minimum field of vision at the helm is a safety measure which benefits the helmsman and a deck officer monitoring the helm.

Paragraph (a)(5) of the regulation requires the side of the vessel to be visible, forward and aft, from the respective bridge wings. This requirement ensures visibility down the sides of the vessel sufficient to safely board pilots, employ and direct tugs, dock the vessel, and maneuver.

3. Bridge Windows

Paragraph (b) of the regulation establishes the requirements for the design and arrangement of windows on the navigation bridge. This is intended to minimize any obstructions to visibility caused by the design of the navigation bridge itself. Framing is required to be kept at a minimum and not installed directly in front of any work station. Front windows on the bridge are required to be inclined from the vertical, top out. Such an arrangement is intended to minimize glare from both the sun and the sea surface. The angle of inclination is between 10 and 25 degrees from the vertical. This is considered to be the optimum range by experts who developed the IMO guidelines and allows some flexibility for the designer and builder. Limitations on the height of the upper and lower edges of the front windows are established, for obvious reasons. And finally, polarized or tinted windows are prohibited.

Regulatory Evaluation

These regulatory changes are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that a full regulatory evaluation is unnecessary. Since navigation bridge visibility would, for new vessels, be considered during the preconstruction design and plan review stage, and for existing vessels function only as a matter of operational control, the minimal economic burden imposed by these regulations would be more than offset by the safety benefits to the vessel itself, other waterway users, and the public.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Coast Guard must consider whether the regulation is likely to have a significant impact on a substantial number of small entities. "Small entities" are defined as independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act, 15 U.S.C. 632. This regulation affects owners and operators of self propelled vessels of 1600 or more gross tons or 100 meters (328 feet) or more in length. The construction costs of vessels of this size is such that their owners and operators tend to be major corporations or subsidiaries of major corporations. Business entities with the capital and operating costs of this magnitude do not meet the definition of "small entities." A total of 14 comments were received as a result of the NPRM of March 29, 1989. None of the comments indicated specific concerns about cost impacts of bridge visibility standards, either in regard to construction costs for new vessels or the operational rules affecting loading of all vessels. For the reasons stated above, the Coast Guard certifies that this regulation does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking requires the inclusion of a Bridge Visibility Plan among those reviewed by the Coast Guard during the design process of new vessels 100 meters (328 feet) or more in length. All plan submittal requirements in title 46 have been approved by the Office of Management and Budget (OMB) under control number 2115-0505. The Bridge Visibility Plan is one of the least complicated plans to prepare and constitutes only a minimal increase in the paperwork burden on the public.

Federalism

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

Environmental Impact

The Coast Guard has reviewed this final rule for environmental impact and determined it is categorically excluded from further environmental documentation, in accordance with section 2.B.2 of Commandant Instruction (COMDTINST) M16475.1B. A Categorical Exclusion Determination statement has been prepared and included in the rulemaking docket.

List of Subjects

33 CFR Part 164

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

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Seamen.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 72

Fire prevention, Marine safety, Occupational safety and health, Passenger vessels, Seamen.

46 CFR Parts 91 and 92

Cargo vessels, Fire prevention, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 190

Fire prevention, Marine safety, Occupatonal safety and health, Oceanographic research vessels.

For the reasons outlined in the preamble, chapter I of title 33, Code of Federal Regulations and chapter I of title 46, Code of Federal Regulations are amended as set forth below.

TITLE 33—[AMENDED]

PART 164—[AMENDED]

1. The authority citation for part 164 is revised to read as follows:

Authority: 33 U.S.C. 1223; 46 U.S.C. 3703; 49 CFR 1.46. Sec. 164.61 also issued under 46 U.S.C. 6101.

2. Part 164 is amended by adding § 164.15 to read as follows:

§ 164.15 Navigation bridge visibility.

(a) The arrangement of cargo, cargo gear, and trim of all vessels entering or departing from U.S. ports must be such that the field of vision from the navigation bridge conforms as closely as possible to the following requirements:

(1) From the conning position, the view of the sea surface must not be obscured by more than the lesser of two hip lengths or 500 meters (1640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision must extend over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision must extend over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision must extend over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(b) A clear view must be provided through at least two front windows at all times regardless of weather conditions.

TITLE 46—[AMENDED]

PART 31—[AMENDED]

3. The authority citation for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

4. Section 31.10–5 is amended by adding paragraph (a)(2) to read as follows:

§ 31.10–5 Inspection of new tank vessels-T/ALL.

(a) * * *

(2) For vessels of 100 meters (328 feet) or more in length contracted for on or after September 7, 1990, a plan must be included which shows how visibility from the navigation bridge will meet the standards contained in § 32.16–1 of this subchapter.

* * * * *

PART 32—[AMENDED]

5. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

6. Part 32 is amended by adding subpart 32.16 to read as follows:

Subpart 32.16—Navigation Bridge Visibility

Sec.
32.16–1 Navigation bridge visibility-T/All.

Subpart 32.16—Navigation Bridge Visibility

§ 32.16–1 Navigation bridge visibility-T/ALL.

Each tankship which is 100 meters (328 feet) or more in length and contracted for on or after September 7, 1990, must meet the following requirements:

(a) The field of vision from the navigation bridge, whether the vessel is in a laden or unladen condition, must be such that:

(1) From the conning position, the view of the sea surface is not obscured forward of the bow by more than the lesser of two ship lengths or 500 meters (1,640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision extends over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision extends over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision extends over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(5) From each bridge wing, the respective side of the vessel is visible forward and aft.

(b) Windows fitted on the navigation bridge must be arranged so that:

(1) Framing between windows is kept to a minimum and is not installed immediately in front of any work station.

(2) Front windows are inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees;

(3) The height of the lower edge of the front windows is limited to prevent any obstruction of the forward view previously described in this section; and

(4) The height of the upper edge of the front windows allows a forward view of the horizon at the conning position, for a person with a height of eye of 1.8 meters (71 inches), when the vessel is at a forward pitch angle of 20 degrees.

(c) Polarized or tinted windows must not be fitted.

PART 71—[AMENDED]

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

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

8. Section 71.65–5 is amended by adding paragraph (i) to read as follows:

§ 71.65–5 Plans and specifications required for new construction.

* * * * *

(i) *Navigation bridge visibility.* For vessels of 100 meters (328 feet) or more in length contracted for on or after September 7, 1990, a plan must be included which shows how visibility from the navigation bridge will meet the standards contained in § 72.04–1 of this subchapter.

PART 72—[AMENDED]

9. The authority citation for part 72 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

10. Part 72 is amended by adding subpart 72.04 to read as follows:

Subpart 72.04—Navigation Bridge Visibility

Sec.
72.04–1 Navigation bridge visibility.

Subpart 72.04—Navigation Bridge Visibility

§ 72.04–1 Navigation bridge visibility.

Each passenger vessel which is 100 meters (328 feet) or more in length and contracted for on or after September 7, 1990, must meet the following requirements:

(a) The field of vision from the navigation bridge, whether the vessel is in a laden or unladen condition, must be such that:

(1) From the conning position, the view of the sea surface is not obscured

forward of the bow by more than the lesser of two ship lengths or 500 meters (1640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision extends over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision extends over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision extends over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(5) From each bridge wing, the respective side of the vessel is visible forward and aft.

(b) Windows fitted on the navigation bridge must be arranged so that:

(1) Framing between windows is kept to a minimum and is not installed immediately in front of any work station.

(2) Front windows are inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees.

(3) The height of the lower edge of the front windows is limited to prevent any obstruction of the forward view previously described in this section.

(4) The height of the upper edge of the front windows allows a forward view of the horizon at the conning position, for a person with a height of eye of 1.8 meters (71 inches), when the vessel is at a forward ptich angle of 20 degrees.

(c) Polarized or tinted windows must not be fitted.

PART 91—[AMENDED]

11. The authority citation for part 91 is revised to read as follows:

Authority: 33 U.S.C. 1312(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

12. Section 91.55–5 is amended by add ng paragraph (i) to read as follows:

§ 91.55–5 Plans and specifications required for new construction.

* * * * *

(1) *Navigation bridge visibility.* For vessels of 100 meters (328 feet) or more in length contracted for on or after September 7, 1990, a plan must be included which shows how visibility from the navigation bridge will meet the standards contained in § 92.03–1 of this subchapter.

PART 92—[AMENDED]

13. The authority citation for part 92 continues to read as follows:

Authority: 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

14. Part 92 is amended by adding subpart 92.03 to read as follows:

Subpart 92.03—Navigation Bridge Visibility

Sec.
92.03 Navigation bridge visibility.

Subpart 92.03—Navigation Bridge Visibility

§ 92.03–1 Navigation bridge visibility.

Each cargo and miscellaneous vessel which is 100 meters (328 feet) or more in length and contracted for on or after September 7, 1990, must meet the following requirements:

(a) The field of vision from the navigation bridge, whether the vessel is in a laden or unladen condition, must be such that:

(1) From the conning position, the view of the sea surface is not obscured forward of the bow by more than the lesser of two ship lengths or 500 meters (1,640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision extends over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision extends over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision extends over and arc from dead ahead to at least 60 degrees on either side of the vessel.

(5) From each bridge wing, the respective side of the vessel is visible forward and aft.

(b) Windows fitted on the navigation bridge must be arranged so that:

(1) Framing between windows is kept to a minimum and is not installed immediately in front of any work station.

(2) Front windows are inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees.

(3) The height of the lower edge of the front windows is limited to prevent any obstruction of the foward view previously described in this section.

(4) The height of the upper edge of the front windows allows a foward view of the horizon at the conning position, for a person with a height of eye of 1.8 meters (71 inches), when the vessel is at a forward pitch angle of 20 degrees.

(c) Polarized or tinted windows must not be fitted.

PART 107—[AMENDED]

15. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115; 49 CFR 1.45, 1.46; section 107.05 also issued under the authority of 44 U.S.C. 3507.

16. Section 107.305 is amended by adding paragraph (r) to read as follows:

§ 107.305 Plans and information.

* * * * *

(r) For vessels of 100 meters (328 feet) or more in length contracted for on or after September 7, 1990, a plan must be included which shows how visibility from the navigation bridge will meet the standards contained in § 108.801 of this subchapter.

* * * * *

PART 108—[AMENDED]

17. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306, 5115; 49 CFR 1.46.

18. Part 108 is amended by adding subpart I to read as follows:

Subpart I—Navigation Bridge Visibility

Sec.
108.801 Navigation bridge visibility.

Subpart I—Navigation Bridge Visibility

§ 108.801 Navigation bridge visibility.

Each mobile offshore drilling unit which is 100 meters (328 feet) or more in length and contracted for on or after

September 7, 1990, must meet the following requirements:

(a) The field of vision from the navigation bridge, whether the vessel is in a laden or unladen condition, must be such that:

(1) From the conning position, the view of the sea surface is not obscured forward of the bow by more than the lesser of two ship lengths or 500 meters (1,640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision extends over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision extends over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision extends over and arc from dead ahead to at least 60 degrees on either side of the vessel.

(5) From each bridge wing, the respective side of the vessel is visible forward and aft.

(b) Windows fitted on the navigation bridge must be arranged so that:

(1) Framing between windows is kept to a minimum and is not installed immediately in front of any work station.

(2) Front windows are inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees.

(3) The height of the lower edge of the front windows is limited to prevent any obstruction of the forward view previously described in this section.

(4) The height of the upper edge of the front windows allows a forward view of the horizon at the conning position, for a person with a height of eye of 1.8 meters (71 inches), when the vessel is at a forward pitch angle of 20 degrees.

(c) Polorized or tinted windows must not be fitted.

PART 189—[AMENDED]

19. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

20. Section 189.55–5 is amended by adding paragraph (j) to read as follows:

§ 189.55–5 Plans and specifications required for new construction.

* * * * *

(j) For vessels of 100 meters (328 feet) or more in length contracted for on or after September 7, 1990, a plan must be included which shows how visibility from the navigation bridge will meet the standards contained in § 190.02–15 of this subchapter.

PART 190—[AMENDED]

21. The authority citation for part 190 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

22. Part 190 is amended by adding subpart 190.02 to read as follows:

Subpart 190.02—Navigation Bridge Visibility

Sec.
190.02–1 Navigation bridge visibility.

Subpart 190.02—Navigation Bridge Visibility

§ 190.02–1 Navigation bridge visibility.

Each oceanographic research vessel which is 100 meters (328 feet) or more in length and contracted for on or after September 7, 1990, must meet the following requirements:

(a) The field of vision from the navigation bridge, whether the vessel is in a laden or unladen condition, must be such that:

(1) From the conning position, the view of the sea surface is not obscured forward of the bow by more than the lesser of two ship lengths or 500 meters (1640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(2) From the conning position, the horizontal field of vision extends over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(3) From each bridge wing, the field of vision extends over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(4) From the main steering position, the field of vision extends over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(5) From each bridge wing, the respective side of the vessel is visible forward and aft.

(b) Windows fitted on the navigation bridge must be arranged so that:

(1) Framing between windows is kept to a minimum and is not installed immediately in front of any work station.

(2) Front windows are inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees.

(3) The height of the lower edge of the front windows is limited to prevent any obstruction of the forward view previously described in this section.

(4) The height of the upper edge of the front windows allows a forward view of the horizon at the conning position, for a person with a height of eye of 1.8 meters (71 inches), when the vessel is at a forward pitch angle of 20 degrees.

(c) Polarized or tinted windows must not be fitted.

Dated: August 2, 1990.

J.W. Lockwood,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation, Safety and Waterway Services.

[FR Doc. 90–18487 Filed 8–7–90; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP San Diego Regulation 90–01]

Termination of Security Zone 165.1101 Pacific Ocean off Mission Beach, San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is terminating the security zone 165.1101 in the Pacific Ocean off Mission Beach, San Diego. The security zone was established in 1986 to protect the Naval Ocean Systems Center Research Tower located 0.9 miles off Mission Beach at latitude 32 46.4 N, longitude 117 16.1 W. That tower was destroyed in a storm in 1988 and there are no plans to rebuild it. Therefore, the security zone is no longer necessary.

EFFECTIVE DATE: The security zone which became effective on 10 March

1986 is terminated as of 15 September 1990 1990.

ADDRESSES: Comments should be mailed to Captain of the Port, U.S. Coast Guard Marine Safety Office, 2710 Harbor Drive, San Diego, CA 92101-1079. The comments will be available for inspection and copying at the U.S. Coast Guard Marine Safety Office, San Diego, Port Operations Department. Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LT Pat Keane, Port Operations Department, Marine Safety Office, San Diego, CA. Telephone number (619) 557-5860.

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 an NPRM and delaying its effective date would be contrary to the public interest since the need for the security zone no longer exists. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESSES"** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Lieutenant Pat Keane, Chief of Port Operations Department, Marine Safety Office, San Diego and Lieutenant Allen Lotz, Eleventh District legal office.

This action was reviewed with Mr. Bud Harmon, Branch Head, Operations, Code 64, Naval Ocean Systems Center (619 553-3431). He indicated that he had discussed the removal of the restricted area with his command, and that they had no objection to the proposed action. This regulation was issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, subpart F 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 1,05-1(g), CFR 6.04-1, 6.04-6 and 160.5.

§ 165.1101 [Removed]

2. Section 165.1101 is removed in its entirety.

Dated: July 30, 1990.

D.P. Montoro,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, CA.

[FR Doc. 90-18486 Filed 8-7-90; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 233

Detection of False and Fraudulent Claims Against the Postal Service; Rewards

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule authorizes the Chief Postal Inspector or his delegate to pay a reward to any person who provides information leading to the detection of persons or firms who obtain, or seek to obtain, funds, property, or services from the Postal Service based upon false or fraudulent activities, statements or claims. The purpose of this rule is to provide a financial incentive to persons with such knowledge to come forward and share it.

EFFECTIVE DATE: September 7, 1990.

FOR FURTHER INFORMATION CONTACT: Postal Inspector Dan Mihalko, (202) 268-5736.

SUPPLEMENTARY INFORMATION: Certain federal statutes, enforced by the Postal Inspection Service, allow for the recovery of losses and penalties from persons or companies who have improperly obtained funds, property, or services from the Postal Service through false or fraudulent activities, claims or statements (*See e.g.*, 18 U.S.C. 287, 1341, 1001, 1722, 1723, 1725, 1733; 31 U.S.C. 3729, *et seq.*, 3802 *et seq.*; 39 U.S.C. 2601). Because the operating costs of the Postal Service ultimately are paid by postal customers, to the extent postal costs are increased by such conduct, postal customers are the ultimate victims.

The Postal Service operates under an assumption that its customers, contractors and employees are honest. With few exceptions, this assumption has proven to be justified. However, opportunity exists for unscrupulous persons or firms to cheat the Postal Service and, regrettably, such losses do occur. The Postal Inspection Service annually identifies contractors who do not furnish the goods or services they have been paid to provide; employees who claim compensation to which they are not entitled; and mailers who cheat on postage payments.

The Postal Inspection Service has established programs to identify and take appropriate legal action against persons who obtain property, services or funds from the Postal Service through false or fraudulent statements. However, in many instances, detection of such conduct is delayed because knowledgeable, innocent observers are reluctant to inform the Postal Inspection Service of facts and circumstances which could lead to the identification of persons or firms who are cheating the Postal Service. The purpose of this rule is to provide a financial incentive to such persons to come forward and share their knowledge.

The rule allows the Chief Postal Inspector, or his delegate, discretion to pay a reward in an amount not exceeding one-half of the amount collected by the Postal Service. The Postal Service is authorized to pay such rewards. *See* 39 U.S.C. 404(a)(8). The rewards would be paid solely from funds recovered through civil or criminal proceedings to recover losses or penalties as a result of false or fraudulent activities, claims and statements submitted to the Postal Service. The rule provides procedures for the submission of claims for such rewards including procedures to protect the identity of the claimant. Some postal employees are, because of their official responsibilities, ineligible to receive such rewards. However, most postal employees and persons not employed by the Postal Service are eligible to receive such rewards. The Chief Inspector or his delegate has complete discretion to pay, to refuse to pay, and to determine the amount of any such reward. Providing information or the submission of a claim for a reward shall not establish a contractual right to receive a reward.

Because this rule establishes a totally discretionary method to facilitate the detection of frauds and false claims against the Postal Service, and

establishes neither rights nor obligations on the part of any member of the public, no useful purpose would appear to be served by delaying adoption of the rule for comment.

List of Subjects in 39 CFR Part 233

Law enforcement, Crime, Postal Service.

Accordingly, part 233 of 39 CFR is amended as follows:

PART 233—INSPECTION SERVICE AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 2254.

2. Amend 233.2 by adding paragraph (c) to read as follows:

§ 233.2 Circulars and rewards.

* * * * *

(c) The Chief Postal Inspector or his delegate is authorized to pay a reward to any person who provides information leading to the detection of persons or firms who obtain, or seek to obtain, funds, property, or services from the Postal Service based upon false or fraudulent activities, statements or claims. The decision as to whether a reward shall be paid and the amount thereof shall be solely within the discretion of the Chief Postal Inspector or his delegate and the submission of information or a claim for a reward shall not establish a contractual right to receive any reward. The reward shall not exceed one-half of the amount collected by the Postal Service as a result of civil or criminal proceedings to recover losses or penalties as a result of false or fraudulent claims or statements submitted to the Postal Service. Postal employees assigned to the Postal Inspection Service or the Law Department are not eligible to receive a reward under this section for information obtained while so employed. The Chief Inspector may establish such procedures and forms as may be desirable to give effect to this section including procedures to protect the identity of persons claiming rewards under this section.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 90–18470 Filed 8–7–90; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 12

Federal Property Assistance Program; Disposal and Utilization of Surplus Real Property for Public Health Purposes

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (Department) amends its regulations at 45 CFR part 12, "Disposal and Utilization of Surplus Real Property for Public Health Purposes," to permit the deeding of surplus Federal real property to assist homeless individuals and to reflect the current location for the operation of the Federal Property Assistance Program within this Department.

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: James F. Trickett (202) 245–7097.

SUPPLEMENTARY INFORMATION: On November 7, 1988, the President signed into law the "Stewart B. McKinney Homeless Assistance Amendments Act of 1988," Pub. L. 100–628. Conference Report 100–1089, submitted by the committee of conference relating to the McKinney Act amendments, includes language which indicates that the Department is not precluded by the McKinney Act from allowing the use of surplus property to assist homeless individuals as a public health purpose under section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended. The Department has determined to do so.

The Department's regulations concerning the disposal and utilization of surplus real property for public health purposes under section 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, are found at 45 CFR part 12. Following the determination of this Department referred to above, we are amending these regulations to permit the deeding of surplus Federal real property for facilities to assist homeless individuals. Section 12.3(e) is amended to include the provision of assistance to homeless individuals as one of the purposes for which property may be provided under the Federal Property and Administrative Services Act of 1949, as amended.

This amendment also revises sections 12.7 and 12.10(b) to reflect the current location for the operation of the Federal Property Assistance Program within this Department.

Waiver of Proposed Rulemaking and of Delayed Effective Date

Because the amendments set forth below simply incorporate into existing regulations an additional public health use for surplus Federal real property and identify the office responsible for the Federal Property Assistance Program, and because the speedy implementation of this program of assistance to homeless individuals will benefit the intended beneficiaries, the Secretary has determined that proposed rulemaking is unnecessary and not in the public interest and that there is good cause for waiving such requirement. On the same basis, the Secretary has determined that there is good cause for making these regulations effective upon publication.

E.O. 12291

This rule does not require a Regulatory Impact analysis because it is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981. It is unlikely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizations and small local governments. Therefore, a regulatory flexibility analysis is not required by 5 U.S.C. 603.

List of Subjects in 45 CFR Part 12

Homeless, Public health, Reporting and recordkeeping requirements, Surplus government property.

Accordingly, 45 CFR part 12 is amended as set forth below.

Dated: May 31, 1990.

Louis W. Sullivan,

Secretary.

PART 12—DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR PUBLIC HEALTH PURPOSES

1. The authority citation for part 12 continues to read as follows:

Authority: Sec. 203, 63 Stat. 385, as amended; 40 U.S.C. sec. 501 of Pub. L. 100-77, 101 stat. 509-10, 42 U.S.C. 11411.

2. 45 CFR 12.3(e) is revised to read as follows:

§ 12.3 General policies.

* * * * *

(e) Organizations which may be eligible include those which provide care and training for the physically and mentally ill, including medical care of the aged and infirm; clinical services; services (including shelter) to homeless individuals; other public health services (including water and sewer); or similar services devoted primarily to the promotion and protection of public health. In addition, organizations which provide assistance to homeless individuals may be eligible for leases under title V of Public Law 100-77. Except for the provision of services (including shelter) to homeless individuals, organizations which have as their principal purpose the providing of custodial or domiciliary care are not eligible. The eligible organization must be authorized to carry out the activity for which it requests the property.

* * * * *

3. 45 CFR 12.7 is revised to read as follows:

§ 12.7 Applications for surplus real property.

Applications for surplus real property for public health purposes shall be made to the Department through the office specified in the notice of availability.

4. 45 CFR 12.10(b) is revised to read as follows:

§ 12.10 Compliance with the National Environmental Policy Act of 1969 and other related acts (environmental impact).

* * * * *

(b) Applicants shall be required to provide such information as the Department deems necessary to make an assessment of the impact of the proposed Federal action on the human environment. Materials contained in the applicant's official request, responses to a standard questionnaire prescribed by the Public Health Service, as well as other relevant information, will be used by the Department in making said assessment.

* * * * *

[FR Doc. 90-18469 Filed 8-7-90; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Plant Harrisia portoricensis (higo chumbo)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the cactus *Harrisia portoricensis* (higo chumbo) to be a threatened species pursuant to the Endangered Species Act of 1973 (Act), as amended. Historically, *Harrisia portoricensis* was known from the off-shore islands of Mona, Monito, and Desecheo and one area on mainland Puerto Rico. Deforestation for industrial and urban development has extirpated the species from the mainland. This endemic cactus is threatened by potential development projects on Mona Island and by impacts to vegetation from feral goats and pigs. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Harrisia portoricensis*.

EFFECTIVE DATE: September 7, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 841-3583).

SUPPLEMENTARY INFORMATION:

Background

Harrisia portoricensis (higo chumbo) was first collected by N.L. Britton in 1908 in southern Puerto Rico from an area to the west of Ponce called "Las Cucharas." However, urban, industrial, and agricultural expansion has resulted in the elimination of this population. Today it is known only from three small islands off the west coast of Puerto Rico: Mona, Monito and Desecheo.

This endemic cactus was placed in the genus *Harrisia* together with species from other Caribbean Islands and Florida by Britton in 1908 (Bull. Torr. Club 35:561). In 1910 Weingart transferred members of this genus to *Cereus* along with other columnar cacti (*In* Urban. Symbolae Antillanae 4:430). However, the treatment of *Harrisia* as distinct continued until recently when the grouping of columnar cacti into the genus *Cereus* once again began to gain acceptance (Vivaldi and Woodbury 1981). Liogier and Martorell (1982) in their flora of Puerto Rico and adjacent islands retain the taxon as a species in the genus *Harrisia*, and it has been treated as such here.

Harrisia portoricensis is a slender, upright, columnar cactus. It is usually unbranched and may reach up to 6 feet (2 meters) tall and 3 inches (7 centimeters) in diameter. It has from 8 to 11 ribs separated by shallow grooves. Spines from 1 to 3 inches (2 to 7 centimeters) long occur in groups approximately ½ to ¾ inch (1 to 2 centimeters) apart. Opening at night, the funnel-shaped flowers are greenish-white and may reach 6 inches (13 centimeters) in length. Fruits are a round, yellow berry without spines (Vivaldi and Woodbury 1981). Numerous black seeds are immersed in a white pulp. These fruits are a preferred food of the endangered yellow-shouldered blackbird (*Agelaius xanthomus*) on the island of Mona (Department of Natural Resources 1986).

The species is restricted to the islands of Mona, Monito, and Desecheo; all three islands are located in the Mona Passage between Puerto Rico and the Dominican Republic. These islands are composed of carbonate rocks, stratified limestone and dolomite, reef rock, and boulder rubble. Rainfall is only 32 inches (70 centimeters) in this semiarid climate. *Harrisia portoricensis* is primarily limited to, but common in, the semi-open xerophytic forest type associated with other species of columnar cacti.

The current status of *Harrisia portoricensis* is due to several factors. As noted previously, the cactus was historically found in mainland Puerto Rico, but it is not extirpated from the island due to development. On Mona Island it is threatened by the potential for development and by the actions of feral pigs and goats. Feral goats are also a problem on Desecheo. The larvae of the cactus moth has reportedly caused damage to the cactus on Mona Island in the past. Any threats to the species tend to be intensified because of the cactus' restricted distribution.

Harrisia portoricensis was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plant being

considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1985, update of the 1980 notice (48 FR 53680); and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service made subsequent petition findings in each October of 1983 through 1988 that listing *Harrisia portoricensis* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. A proposed rule to list *Harrisia portoricensis*, published October 18, 1989 (54 FR 42813), constituted the final 1-year finding in accordance with section 4(b)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the October 18, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were requested to comment. A newspaper notice inviting general public comment was published in *El Dia* on November 3, 1989, and in the *San Juan Star* on October 29, 1989. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources, Terrestrial Ecology Section, supported the listing of *Harrisia portoricensis* as a threatened species. They suggested that disease and infestation by the cactus moth be mentioned as being responsible for past die-offs.

The U.S. Army Corps of Engineers, Jacksonville District, reported that they did not have any action proposed or under consideration which might affect *Harrisia portoricensis*.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Harrisia portoricensis* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Harrisia portoricensis* Britton (higo chumbo) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Harrisia portoricensis*. Dry forests similar to that on Mona and Desecheo once covered much of southern and southwestern Puerto Rico. These have been destroyed or modified for urban, industrial and agricultural development. The cactus is no longer found in the Ponce area, its type location. The islands of Mona and Monito are currently managed as wildlife reserves by the Puerto Rico Department of Natural Resources. However, in the past, various proposals have been presented for using Mona Island, which has the vast majority of the habitat, as a superport and oil storage facility and as a prison. Desecheo is currently protected as a Natural Wildlife Refuge; however, it was once managed as a breeding colony for moneys by the National Institute of Health. All three islands have been utilized in the past for bombing practice by the U.S. Navy.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species; however, problems with the take of cacti in Puerto Rico continue, even on public lands, despite their protection. Should the species be reintroduced onto mainland Puerto Rico, take could become a problem. Trade in all American species of cactus is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), appendix II.

C. *Disease or predation.* The larvae of the cactus moth (*Cactoblastis cactorum*) has caused damage to *Harrisia portoricensis* in the past, but it has not been observed recently. Feral pigs on Mona uproot the cactus while searching for edible roots. Feral goats on both Mona and Desecheo forage on a variety of species and may be responsible for shifts in vegetation composition.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Harrisia portoricensis* is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Harrisia portoricensis* is its limited distribution, which increases its vulnerability to threats listed under factors A and C above. These threats include potential habitat loss from development and the impacts from feral goats and pigs.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Harrisia portoricensis* as threatened. The species is restricted to only three small islands to the west of mainland Puerto Rico, the primary one of which is subject to habitat destruction and modification by development projects, and two of which are impacted by feral animals. However, because plants of all sizes and ages have been observed (Vivaldi and Woodbury 1981), threatened rather than endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Mona Island has been designated critical habitat for the yellow-shouldered blackbird (*Agelaius xanthomus*), the Mona ground iguana (*Cyclura stejnegeri*), and the Mona boa (*Epicrates monensis monensis*); and Monito Island has been designated as critical habitat for the Monito gecko

(*Sphaerodactylus micropithecus*). The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed and endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being designated for *Harrisia portoricensis*, as discussed above. The only Federal involvement anticipated for the immediate future would be within the Service relative to possible goat control on the Desecheo National Wildlife Refuge, and possible involvement on Mona and Monito Islands relative to Service-administered grant-in-aid projects.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. The 1988 amendments do not reflect this protection for threatened plants. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances.

It is anticipated that few trade permits for *Harrisia portoricensis* will ever be sought or issued, since the species is not known to be in cultivation and wild populations are relatively inaccessible. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507 (703/358-2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R.A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. xv + 403 pp.

Department of Natural Resources. 1986. Annual report for the yellow-shouldered blackbird project. San Juan, Puerto Rico.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: A systematic synopsis. University of Puerto Rico, Río Piedras, Puerto Rico. 342 pp.

Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Harrisia portoricensis* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 12 pp.

Woodbury, R.C., L.F. Martorell, and J.G. García-Turduí. 1977. The flora of Mona and Monito Islands, Puerto Rico (West Indies). Bulletin 252, Agricultural Experiment Station, University of Puerto Rico, Mayaguez.

Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
* * *	* *	* *	*	*	*	
Harrisia (=Cereus) *portoricensis.*	Higo chumbo	U.S.A. (PR)	T	397	NA	NA
* * *	* *	* *	*	*	*	

Dated: July 19, 1990.

Suzanne Mayer,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-18564 Filed 8-7-90; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant Aristida portoricensis (pelos del diablo)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Aristida portoricensis* (pelos del diablo) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Aristida portoricensis* is a grass endemic to serpentine slopes and red clay soils of southwestern Puerto Rico. It is presently found on only two sites in this area and is threatened by the expansion of residential and commercial development and by proposals for the mining of copper and gold. This final rule will implement for *Aristida portoricensis* the Federal protection and recovery provisions afforded by the Act.

EFFECTIVE DATE: September 1, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 841-3583).

SUPPLEMENTARY INFORMATION:

Background

Aristida portoricensis (pelos del diablo) was first collected in 1903 from Cerro Las Mesas, Mayaguez, in southwestern Puerto Rico. In 1927 this endemic grass was reported by José I. Otero from the nearby Guanajibo area and later from Hormigueros; however, these collection sites have not since been relocated. Both populations appear to have been eliminated as a result of urban and commercial development (Department of Natural Resources 1989; McKenzie et al. 1989).

Today, *Aristida portoricensis* is known from only two locations on serpentine slopes and red clay soils of southwestern Puerto Rico: Cerro Las Mesas and the Sierra Bermeja. Recent expansion of residential areas has eliminated portions of the Cerro Las Mesas population and very few plants remain at this site. In both areas *Aristida portoricensis* is threatened by residential and agricultural expansion; however, in the Sierra Bermeja a proposal for the mining of copper and gold threatens the species as well. In the Sierra Bermeja, a small range of coastal hills in the extreme southwestern corner of the island, the species is scattered along the upper slopes where it is found growing on exposed rock crevices (Liogier and Martorell 1982; McKenzie et al. 1989).

The tufted culms of *Aristida portoricensis* may reach 30 to 50 centimeters (12 to 20 inches) in height. These culms occur in large bunches and are slender, erect or spreading at the base. The blades are involute, somewhat curved or flexuous and from 5 to 10 centimeters (2 to 4 inches) long and scarcely 1 millimeter (less than 1/16 inch) wide when rolled. The panicles, from 3 to 8 centimeters (1 to 3 inches) in length, are narrow, loose, and few-flowered. The few, distant branches are stiffly ascending and mostly floriferous from the base. The glumes are awn-pointed, the first about 7 millimeters (1/4 inch) long, the second approximately 10 millimeters (3/8 inch) in length. The lemma is from 10 to 12 millimeters (3/8 to 1/2 inch) long, including the 1 millimeter (less than 1/16 inch) long callus and the 2 to 3 millimeters (1/8 to 1/8 inch) long slightly twisted scabrous neck. The awns are almost equal, divergent or horizontally spreading, 2 to 3 centimeters (3/4 to 1 1/4 inches) long and slightly contorted at the base (Hitchcock 1936).

Aristida portoricensis was recommended for Federal listing by Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1983, update of the 1980 notice (48 FR 53680); and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently made petition findings in each October from 1983 through 1988 that listing *Aristida portoricensis* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. The final finding required by the Act was completed when the Service proposed listing *Aristida portoricensis* on October 10, 1989 (54 FR 41473).

Summary of Comments and Recommendations

In the October 10, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the *San Juan Star* on October 29, 1989, and in the *El Dia* on November 3, 1989. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The U.S. Army Corps of Engineers, Jacksonville District, reported that they did not have any action proposed or under consideration which might affect *Aristida portoricensis*. The Puerto Rico Department of Natural Resources, Terrestrial Ecology Section, supported the listing of *Aristida portoricensis* as an endangered species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Aristida portoricensis* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Aristida portoricensis* Pilger (pelos del diablo) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Aristida portoricensis*. Once more widely distributed throughout the southwestern part of Puerto Rico, it is now known to occur on only two sites. The expansion of residential development threatens to eliminate the few remaining individuals on Cerro Las Mesas. The Sierra Bermeja area is one of several areas currently included in the copper and gold mining proposal under consideration by the Commonwealth of Puerto Rico. The area is also subject to intense pressure for residential development. Land clearing to enhance cattle grazing operations has already destroyed some habitat formerly occupied by *Aristida portoricensis* in the Sierra Bermeja (McKenzie et al. 1989).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Aristida portoricensis* is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Aristida portoricensis* is its limited distribution. Only two populations are know to exist and one of these has been almost totally eliminated. Introduced grasses, widely planted for grazing purposes, may have excluded this endemic grass from parts of its past range (McKenzie et al. 1989).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Aristida portoricensis* as endangered. The species is restricted to only two locations in southwestern Puerto Rico, both of which are imminently threatened by habitat destruction and modification. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Aristida portoricensis* is sufficiently small that vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *Aristida portoricensis*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. The protection required for Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Aristida portoricensis*, as discussed above, Federal involvement is not expected where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting digging up, or damaging or destroying of endangered plants in knowing violation of any State (Commonwealth) law or regulation, including State (Commonwealth) criminal trespass law.

Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Aristida portoricensis* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507, (703/358-2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R.A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC. xv + 403 pp.

Department of Natural Resources. 1989. Natural Heritage Program status information on *Aristida portoricensis*. San Juan, Puerto Rico.

Hitchcock, A.S. 1936. Manual of the grasses of the West Indies. U.S. Department of Agriculture, Miscellaneous Publication No. 243. Washington, DC. 439 pp.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Rio Piedras, Puerto Rico. 342 pp.

McKenzie, P.M., R.E. Noble, L.E. Urbatsch, and G.R. Proctor. 1989. Status of *Aristida* (Poaceae) in Puerto Rico and the Virgin Islands. In press.

Author

The primary author of this final rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622, (809/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Poaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Poaceae—Grass family:						
*	*	*	*	*	*	
Aristida portoricensis	Pelos del diablo	U.S.A (PR)	E	398	NA	NA
*	*	*	*	*	*	

Dated: July 19, 1990.

Suzanne Mayer,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-18565 Filed 8-7-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 900495-0175]

RIN 0648-AC77

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects a portion of the preamble to the final rule to implement Amendment 5 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic published July 19, 1990 (55 FR 29370).

EFFECTIVE DATE: August 20, 1990.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

In FR Doc. 90-16791 appearing in the issue of July 19, 1990, make the following correction:

On page 29370, under the "**SUMMARY**" heading, column 2, line 16, the information for "(4)" should read "makes the South Atlantic Fishery Management Council responsible for pre-season adjustments of total allowable catch and bag limits for the Atlantic migratory groups of king and Spanish mackerel and the Gulf of Mexico Fishery Management Council responsible for such adjustments for the Gulf migratory groups of king and Spanish mackerel;".

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

Dated: August 3, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-18562 Filed 8-7-90; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 646

[Docket No. 900798-0198]

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce (Secretary) announces an emergency rule that (1) Adds wreckfish to the management unit of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), (2) establishes a fishing year for wreckfish commencing April 16, 1990, (3) establishes a commercial quota of 2 million pounds (907,194 kilograms)

for the fishing year that commenced April 16, 1990, and (4) establishes a catch limit of 10,000 pounds (4,536 kilograms) per trip. The intended effect of this rule is to respond to an emergency in the snapper-grouper fishery by reducing the fishing mortality of wreckfish.

EFFECTIVE DATES: August 3, 1990, through November 1, 1990.

ADDRESSES: Copies of documents supporting this action may be obtained from Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This rule implements emergency measures to conserve and manage wreckfish.

Background

Relatively little is known about wreckfish. This species can reach 220 pounds (100 kilograms), but has an average weight of about 30 pounds (13.6 kilograms). Wreckfish are pelagic for the earlier years of their life and are often associated with floating debris during that time. Adults are abyssal and are generally distributed from Newfoundland to Argentina; however, fishable concentrations have been found only in a limited area of the Blake Plateau, approximately 100 nautical miles off the coasts of South Carolina and Georgia.

The fishing grounds have depths ranging between 248 and 330 fathoms (450 and 600 meters), and are characterized by a rocky ridge having a vertical relief of over 27 fathoms (50 meters). The substrate in areas of the Blake Plateau exhibiting significant relief is generally composed of manganese-phosphate pavements, phosphorite slab, and coral banks. Wreckfish concentrations occur primarily on the manganese-phosphate bottoms. Portions of the fishing grounds characterized by an unevenness of the ridge are relatively unproductive, and further limit the area suitable for fishing.

The fishery began in 1987 with two vessels landing wreckfish in South Carolina and has since expanded to approximately 50 vessels. Fishermen who have been displaced from other heavily exploited or stressed fisheries, such as snapper-grouper, mackerel, shrimp, or swordfish, may enter the wreckfish fishery, add to the rapidly increasing amount of effort, and cause additional stress on the fishery.

Initial catch rates were impressive, ranging between 10 and 12 thousand pounds (4.5-5.4 thousand kilograms) per 7-8 day trip. Catch rates for some of the more productive vessels now range upwards of 30 thousand pounds (13.6 thousand kilograms) for a 7-8 day trip. Several of the vessels operate with a very short interval between trips, resulting in disproportionately high catches. Trip limits should serve to more equitably distribute catch among the participants in the fishery.

The resource is harvested with modified "bandit" gear similar to that used on other members of the snapper-grouper complex; the gear normally consists of heavy duty hydraulic reels spooled with ⅛-inch (0.32-centimeter) cable and a terminal rig consisting of 50 pounds (22.7 kilograms) of weight and 8-12 large circle hooks baited with squid. The wreckfish harvest in 1987 was approximately 29 thousand pounds (13,154 kilograms), and has increased exponentially in succeeding years. The 1989 harvest level was 2 million pounds (907,194 kilograms) and that amount is expected to be exceeded in 1990, based on landings since January 1; landings from April 15 through June, 1990, were approximately 1.38 million pounds (749 thousand kilograms).

The geographically limited extent of the fishing grounds, the biological characteristics of wreckfish, the rapid increase in participation in the fishery, and lack of regulation make the fishery vulnerable to rapid depletion, and necessitate immediate action to prevent a resource collapse. The Council is preparing Amendment 3 to the FMP, which would establish a long-term management program for wreckfish. However, Amendment 3 has not yet been submitted to the Secretary for approval. Once submitted, the amendment could not be approved and implemented for several months because of the requirements for public notice and opportunity for public comment. In response to the need for timely action, the Council requested that NMFS implement an emergency rule to control the harvest or possession of wreckfish in or from the Exclusive Economic Zone (EEZ).

Emergency Management Measures

This emergency rule (1) adds wreckfish to the management unit of the FMP, (2) establishes a fishing year beginning April 16, 1990, (3) establishes a quota of 2 million pounds (907,194 kilograms) for the 1990/1991 fishing year, and (4) establishes a trip limit of 10,000 pounds (4,536 kilograms) per vessel.

Taxonomically, wreckfish are closely related to groupers and, until recently, were included in the family Serranidae. They are fished primarily from vessels that formerly fished for other species in the snapper-grouper fishery and that have modified their "bandit" gear. They are also similar to groupers in flavor and texture and are marketed as "wreck grouper." Accordingly, the addition of wreckfish to the snapper/grouper management unit is appropriate

Existing regulations applicable to the snapper-grouper fishery of the south Atlantic (50 CFR part 646) will have little impact on the wreckfish fishery as a result of adding wreckfish to the management unit. There is a possibility that a vessel might fish with a trawl for royal red shrimp and with modified "bandit" gear for wreckfish on the same trip. Under the existing regulations, a vessel with trawl gear aboard is limited to 200 pounds (90.72 kilograms) of fish in the snapper-grouper fishery aboard. Because trawling for royal red shrimp occurs offshore in relatively deep water, it is not incompatible with the general prohibition on trawling for snapper-grouper; in this emergency rule, for the purpose of determining when a vessel with trawl gear aboard is in a directed snapper-grouper fishery, the weight of wreckfish will not be considered when determining the total weight of fish in the snapper-grouper fishery.

Wreckfish reportedly spawn from mid-January until mid-April. A fishing year commencing after the spawning season protects the spawning population in the likely event that the quota is harvested and the fishery is closed before mid-January. April 16, 1990, is the commencement date for monitoring wreckfish harvests against the quota.

A quota of 2 million pounds (907,194 kilograms) stabilizes the harvest at the 1989 level and reduces the probability of a resource collapse, while minimizing economic impacts on the participants in the fishery. A smaller quota, when combined with the trip limits, would cause an unnecessarily severe impact on the existing fishery. A higher quota would encourage further increases in effort, and would contribute to depletion of the limited resource.

Vessel trip limits provide for more equitable distribution of the quota among fishermen and preclude more efficient vessels from harvesting a disproportionate share of the quota. Notwithstanding a rapid increase in the number of vessels in the fishery, the trip limits will also distribute the catch over

a greater period of time, allow more extensive coverage for the collection of biological information, and maintain competitive price levels by stabilizing the market.

The Council found that the lack of management of wreckfish in the EEZ constitutes an emergency. The Secretary concurs. Accordingly, the Secretary amends the FMP on an emergency basis and promulgates this emergency rule to be effective for 90 days, as authorized by sections 305(e)(2)(B) and (e)(3)(B) of the Magnuson Act. Upon agreement of the Secretary and the Council, the emergency amendment and rule may be extended for an additional period of not more than 90 days. The fishing year, quota, and closure provisions established by this emergency rule are consistent with management measures expected to be submitted by the Council in Amendment 3 to the FMP.

Classification

The Secretary has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. It is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

This rule is exempt from the requirements of the Regulatory Flexibility Act for preparation of a regulatory flexibility analysis because no general notice of proposed rulemaking for this rule is required by law.

The Assistant Administrator for Fisheries, NOAA, prepared an environmental assessment (EA) for this action which concludes that there will be no significant impact on the human environment. A copy of the EA is available from the address above.

The Secretary determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, North Carolina, and South Carolina. Georgia does not have an approved coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Secretary finds for good cause (i.e., to prevent fishing that would seriously interfere with necessary protection of the wreckfish resource) that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule, or to delay for 30 days its effective date, under the provisions of sections 553(b)(B) and (d)(3) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 3, 1990.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

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

2. In § 646.2, effective from August 3, 1990, through November 1, 1990, in the definition of *Fish in the snapper-grouper fishery,* after the listing of Snappers—Lutjanidae, a new family and species are added; and a new definition of *Trip* is added in alphabetical order to read as follows:

§ 646.2 Definitions.

* * * * *

Fish in the snapper-grouper fishery means the following species:

* * * * *

Temperate basses—Percichthyidae
Wreckfish—*Polyprion americanus*

* * * * *

Trip means a fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

3. In § 646.6, effective from August 3, 1990, through November 1, 1990, new paragraphs (q), (r), and (s) are added to read as follows:

§ 646.6 Prohibitions.

* * * * *

(q) After a closure, harvest or possess wreckfish in or from the EEZ, or purchase, barter, trade, offer for sale, or sell wreckfish taken from the EEZ, as specified in § 646.25(b)(2).

(r) Possess wreckfish in or from the EEZ in excess of 10,000 pounds (4,536 kilograms), as specified in § 646.25(c)(1).

(s) Transfer wreckfish at sea, as specified in § 646.25(c)(2).

4. A new § 646.25 is added to subpart B, effective from August 3, 1990, through November 1, 1990, to read as follows:

§ 646.25 Wreckfish limitations.

(a) *Fishing year.* The fishing year for wreckfish begins on April 16, 1990, and each April 16 thereafter, and ends on April 15.

(b) *Quota and closure.* (1) Persons fishing for wreckfish are subject to a quota of 2 million pounds (907,194 kilograms) each fishing year.

(2) When the quota is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the **Federal Register.** After the effective date of such notice, for the remainder of the fishing year, wreckfish may not be harvested or possessed in or from the EEZ and the purchase, barter, trade, offer for sale, and sale of wreckfish taken from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded or sold prior to the effective date of the notice in the **Federal Register** and were held in cold storage by a dealer or processor.

(c) *Trip limit.* (1) No vessel on any trip may possess wreckfish in or from the EEZ in excess of 10,000 pounds (4,536 kilograms).

(2) Wreckfish taken in the EEZ may not be transferred at sea; and wreckfish may not be transferred at sea in the EEZ, regardless of where such wreckfish were taken.

(d) *Trawl gear waiver.* The provisions of § 646.22(c)(1) notwithstanding, for the purpose of determining when a vessel is in a directed snapper-grouper fishery, the weight of wreckfish will not be considered when determining the total weight of fish in the snapper-grouper fishery abroad.

[FR Doc. 90-18561 Filed 8-3-90; 3:30 pm]
BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 900511-0111]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces revised subarea quotas for coho salmon in two recreational fisheries from Cape Alava to Leadbetter Point, Washington. The Director, Northwest Region, NMFS (Regional Director), has determined that the coho salmon catch quota for the subarea between the Queets River and Leadbetter Point, Washington, should be reduced by 3,000 from 94,300 to 91,300 fish, and that the coho salmon catch quota for the subarea between Cape Alava and the Queets River, Washington, should be increased by 2,100 from 3,300 to 5,400 fish. This action is taken in accordance with the inseason management provisions of the framework amendment to the Fishery Management Plan for Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California. This action results in no net increase in impacts on critical Washington coastal and Puget Sound natural coho salmon stocks. This action is intended to maximize the harvest of coho salmon without exceeding the ocean share allocated to the recreational fishery north of Cape Falcon, Oregon, and to provide additional recreational fishing opportunity in the subarea from Cape Alava to the Queets River, Washington.

DATES: *Effective:* Modification of the coho salmon catch quotas in the subareas from Cape Alava to the Queets River, and from the Queets River to Leadbetter Point, Washington, is effective 2400 hours local time, July 27, 1990. *Comments:* Public comments are invited until August 17, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are published at 50 CFR part 661. In its preseason notice of 1990 management measures (55 FR 18894, May 7, 1990), NOAA announced recreational fishing seasons for all salmon species in four separate subareas between the U.S.-Canada border and Cape Falcon, Oregon. Each of the four fishing seasons is scheduled to close September 20 or upon attainment of either separate subarea catch quotas for coho salmon or an overall catch quota of 37,500 chinook salmon north of Cape Falcon. Specifically, the recreational fishery from Cape Alava to the Queets River, Washington, which began on July 2, has a subarea catch quota of 3,300 coho salmon, and the recreational fishery from the Queets River to Leadbetter Point, Washington, which began on June 18, has a subarea catch quota of 94,300 coho salmon.

According to the best available information on July 27, the recreational fishery catch from Cape Alava to the Queets River is projected to reach the subarea quota of 3,300 coho salmon by midnight, July 27. In addition, the recreational fishery from the Queets River to Leadbetter Point is not expected to fully harvest its subarea coho quota.

Regulations at 50 CFR 661.21(b)(1)(i) authorize inseason modification of quotas. Representatives of the Salmon Advisory Subpanel and local governments from the affected areas, in consultation with the Salmon Technical Team (STT), agreed to an immediate inseason transfer of coho salmon between the two subareas. Specifically, the coho salmon catch quota for the subarea between the Queets River and Leadbetter Point is reduced by 3,000, from 94,300 to 91,300 fish. This reduced catch quota is expected to allow fishing to continue in this subarea as scheduled through the September 20 season ending date. In order to achieve no net increase in impacts on critical Washington coastal and Puget Sound natural coho salmon stocks, the 3,000-fish reduction in this subarea quota results in a 2,100-fish increase in the coho salmon catch quota for the subarea between Cape Alava and the Queets River, from 3,300 to 5,400 fish.

Based on the agreement reached by the affected parties and the analysis by the STT, the Regional Director has determined that this inseason modification of two subarea catch quotas for coho salmon is warranted. This action is intended to maximize the harvest of coho salmon without exceeding the ocean share allocated to the recreational fishery north of Cape Falcon, Oregon, and to provide additional fishing opportunity in the subarea between Cape Alava and the Queets River, Washington.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen was given by telephone hotline number (206) 526-6667. NOAA issues this notice to reduce the catch quota for coho salmon in the subarea from the Queets River to Leadbetter Point to 91,300 fish, and to increase the catch quota for coho salmon in the subarea from Cape Alava to Leadbetter Point to 5,400 fish. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding these revised catch quotas. The State of Washington will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this federal action.

To allow the recreational fishery in the subarea between Cape Alava and the Queets River to continue uninterrupted, this inseason adjustment is effective 2400 hours local time July 27, thus preventing the automatic closure of this fishery due to attainment of the preseason subarea catch quota for coho salmon. Notice of this inseason adjustment is, therefore, by filing this notice with the **Federal Register**.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the **Federal Register**, through August 17, 1990.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Joe P. Clem,

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

[FR Doc. 90-18481 Filed 8-2-90; 5:04 pm]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 91050-0019]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of rescission of closure to directed fishing; request for comments.

SUMMARY: The Director, Alaska Region, NMFS, is rescinding a previous notice of closure for Domestic Annual Processing

(DAP) of "Other Rockfish" in the Eastern Regulatory Area of the Gulf of Alaska, effective 12 noon, Alaska local time, August 3, 1990. This action is necessary to assure optimum use of groundfish in the Gulf of Alaska. The intent of this action is to promote fishery objectives of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska.

DATES:

Effective 12:00 noon, Alaska local time (ALT), August 3, 1990.

Comments are invited on or before August 20, 1990.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett, Resource Management Specialist, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Goundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

The 1990 TAC specified for "Other Rockfish" in the Eastern Regulatory Area is 5,700 mt (55 FR 3223, January 31, 1990). Under § 672.20(c)(2), the Regional Director previously determined that 505 mt of "Other Rockfish" was required to provide bycatch for other groundfish species expected to be taken in the Eastern Regulatory Area during the remainder of the fishing year. Therefore, he established a directed fishing allowance of 5,195 mt and closed the directed fishery for "Other Rockfish" in that area (55 FR 27643, July 5, 1990). Since the closure, not as many metric tons of "Other Rockfish" were taken as bycatch in the remaining groundfish fishery as anticipated. The Regional Director reports that as of July 14, 1990, 467 mt of "Other Rockfish" remain in the Eastern Regulatory Area, more than is necessary for bycatch in other groundfish fisheries through the end of the fishing year.

Therefore, the Secretary is rescinding the previous closure for DAP "Other Rockfish" in the Eastern Regulatory Area of the Gulf of Alaska effective 12:00 noon, ALT, August 3, 1990, to assure optimum use of "Other Rockfish" in the Eastern Regulatory Area.

The DAP fishery is now targeting on "Other Rockfish" in other areas of the Gulf of Alaska. Directed fisheries for "Other Rockfish" in other regulatory areas of the Gulf of Alaska will be closed soon. By making this notice effective immediately, the DAP fishery for "Other Rockfish" will be able to continue in the Eastern Regulatory Area. This action promotes efficient fishing practices and avoids possible loss of marketing opportunities. NOAA, therefore, finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and that its effective date should not be delayed.

Public comments on the necessity for this action are invited on or before August 23, 1990. Public comments on this notice may be submitted to the Regional Director at the above address.

Classification

This action is taken under § 672.20(c)(2) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

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

Dated: August 2, 1990.

Joe P. Clem,

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

[FR Doc. 90-18482 Filed 8-2-90; 5:04 pm]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 91050-0019]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), is prohibiting further retention of "Other Rockfish" by vessels fishing in the Western Regulatory Area of the Gulf of Alaska from 12:00 noon, Alaska local time, August 3, 1990, through December 31, 1990. This action is necessary to prevent the total allowable catch (TAC) for "Other Rockfish" in the Western Regulatory Area from being exceeded before the end of the fishing year. The intent of this action is to promote optimum use of groundfish while conserving "Other Rockfish" stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (ALT), August 3, 1990, through midnight ALT, December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the goundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Under § 672.20(c)(3), when the Regional Director determines that the TAC of any target species or "other species" category in a regulatory area or district has been reached, the Secretary will publish a notice in the **Federal Register** declaring that the species or species group is to be treated in the same manner as a prohibited species under § 672.20(e) in all or part of that regulatory area or district.

The 1990 TAC specified for "Other Rockfish" in the Western Regulatory Area is 4,300 mt (55 FR 3223, January 31, 1990). The Regional Director reports that U.S. vessels have caught 2,014 mt of "Other Rockfish" through July 14 in the Western Regulatory Area. At current catch rates, the TAC will be taken on August 3, 1990.

Therefore, pursuant to §§ 672.20 (c)(3) and (e), the Secretary is declaring that "Other Rockfish" must be treated in the same manner as prohibited species in the Western Regulatory Area of the Gulf of Alaska effective 12:00 noon, ALT, August 3, 1990.

Classification

This action is taken under § 672.20 (c)(3) and (e) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 US..C. 1801, *et seq.*

Dated: August 2, 1990.

Joe P. Clem,

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

[FR Doc. 90-18482 Filed 8-2-90; 5:04 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 153
Wednesday, August 8, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

[DA-90-027]

Milk in the Iowa Marketing Area; Proposed Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of rules.

SUMMARY: This notice invites written comments on a proposal to revise certain provisions of the Iowa Federal milk order for the months of September through November 1990. The proposal would reduce the shipping percentage for pooling supply plants by 5 percentage points from 35 to 30 percent of receipts. The action was requested by Beatrice Cheese, Inc., a handler who operates a pool supply plant under the order. The handler contends that the action is necessary to prevent uneconomic shipments of milk from supply plants to distributing plants. In addition, since the shipping percentages have been reduced during the months of September-November for each of the last five years, comments are being requested on whether the shipping percentages should be reduced during these months for an indefinite period.

DATES: Comments are due no later than August 15, 1990.

ADDRESSES: Comments (two copies) should be sent to: USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-2089.

SUPPLEMENTARY INFORMATION: The Regulatory Felxibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action would reduce the regulatory impact on milk handlers and end to ensure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby being that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of § 1079.7(b)(1) of the order, the revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September-November.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September in the revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the supply plant shipping percentages for the months of September through November. The proposed action would reduce the shipping percentage by 5 percentage points from the present 35 to 30 percent of receipts.

Section 1079.7(b)(1) of the Iowa order provides that the Driector of the Diary Division may increase or reduce the supply plant shipping percentage by up to 10 percentage points. The adjustments can be made to encourage additional milk shipments or to prevent uneconomic shipments.

The revision was proposed by Beatrice Cheese, Inc., a handler who operates a pool supply plant under the order. The handler contends that the reduction of the shipping standard is necessary to prevent uneconomic shipments from supply plants to distributing plants. The handler points out that receipts of producer milk under the order during the first six months of 1990 were up about 4 percent from the previous year. In addition, about 26 percent of producer milk pooled under the order was used in Class I during the first six months, compared to 26.5 percent the previous year. The handler also points out that receipts of milk at its supply plant during the first six months were about 5 percent greater than the previous year. Based on the relationship of fluid milk sales to the receipts of milk, the handler contends that a reduction of the supply plant shipping percentage is necessary to prevent uneconomic shipments during the months of September-November 1990. Absent a reduction, the handler contends that it would have to engage in the uneconomic backhauling of 2.0 to 2.5 million pounds of milk per month in order to pool its supply of milk. The handler maintains that distributing plants would be adequately supplied with milk with a lowering of the supply plant shipping percentage by 5 percentage points to 30 percent of receipts.

These supply plant shipping percentages have been reduced during the months of September through November during each of the last five years. In view of this history of the supply/demand relationship for the market during these months, consideration should be given to reducing the shipping percentage for the months of September through November for an indefinite period.

List of Subjects in 7 CFR Part 1079

Dairy products, Milk, Milk marketing orders

The authority citation for 7 CFR part 1079 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Signed at Washington, DC, on August 2, 1990.

Richard M. McKee,

Acting Director, Dairy Division.

[FR Doc. 90-18536 Field 8-7-90; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 113

[Docket No. 90-159]

Viruses, Serums, Toxins, and Analogous Products; Autogenous Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public hearing; reopening and extension of comment period.

SUMMARY: We are holding a public hearing and reopening and extending the comment period for a proposed rule (Docket No. 89-200) which would amend the regulations concerning autogenous biologics under the Virus-Serum-Toxin Act by: (1) Specifying the data that would be submitted to the Animal and Plant Health Inspection Service insupport of a request to use an autogenous biologic in herds or flocks that are adjacent or nonadjacent to the herd or flock of origin; and (2) specifying data that would be submitted in support of a request to use an isolate for the production of an additional serial beyond 12 months. This action will provide interested persons with an opportunity to present additional comments on the proposed rule.

DATES: The public hearing will be held in Ames, Iowa, from 1 to 2:30 p.m., on August 23, 1990. The comment period will be reopened August 22, 1990. Consideration will be given only to comments received on or before September 21, 1990.

ADDRESSES: The public hearing will be held in the Scheman Building, Iowa State Center, Ames, Iowa, on August 23, 1990. To help insure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Center Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket 89-200. Comments may be inspected at Room 1141 of the South Building, 14th and Independence Avenue, SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8245.

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1990, we published in the **Federal Register** (55 FR 15233-15236, Docket No. 89-200) a document proposing to amend the regulations pertaining to autogenous biologics by (1) specifying data that would be required to be submitted to the Animal and Plant Health Inspection Service (APHIS) in support of a request to use autogenous biologics in herds or flocks that are adjacent or non-adjacent to the herd or flock of origin; (2) specifying data that would be required to be submitted in support of a request to use the organisms for the production of an additional serial of an autogenous biologic from cultures which are older than 12 months from the date of isolation.

The proposed rule requested the submission of written comments on or before June 22, 1990. We received a request from a trade association that the comment period be extended to allow for additional time for the preparation of comments by the association's members. In response to this request, on June 22, 1990, a Notice was published in the **Federal Register** that extended the comment period for an additional 30 days to July 23, 1990 (see 55 FR 25669, Docket No. 90-123).

Based upon the complexity of the comments received, APHIS believes it would be in the public interest to provide for a thorough discussion of the issues associated with the regulation of autogenous biologics at its Second Annual Meeting on Veterinary Biologics to be held in Ames, Iowa, on August 23-24, 1990 (see 55 FR 29077) before going further with the rulemaking proceeding for autogenous biologics. Therefore, in order to provide an additional opportunity to comment on the proposed rule as well as the comments already submitted, APHIS will designate a portion of its second annual public meeting as a "public hearing" specifically to discuss these items. The "public hearing" portion of the meeting will be held from 1 to 2:30 p.m. on August 23, 1990.

Persons who wish to present comments on the proposed rule may register at the table located at the meeting entrance. Please specify that your comments pertain to the public hearing on autogenous biologics. Registered persons will be heard in the order of registration. Unregistered persons who wish to speak will be afforded the opportunity after the registered persons have been heard. The hearing officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

In light of this public hearing, APHIS is reopening and extending its comment period for Docket No. 89-200 from August 22, 1990 through September 21, 1990. We will consider all written comments received on or before September 21, 1990. This action will allow all interested persons additional time to prepare comments.

Authority: 21 U.S.C. 151-159, 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 3rd day of August 1990.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-18530 Filed 8-7-90; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Fees Paid By Federal Credit Unions; Correction

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; request for comments; correction.

SUMMARY: NCUA is correcting a typographical error in a percentage set forth in a proposed rule which appeared in the **Federal Register** on July 23, 1990 (55 FR 29857).

FOR FURTHER INFORMATION CONTACT: Herbert Yolles, Controller, or Charles Bradford, Chief Economist, at (202) 682-9600.

Dated: August 3, 1990.

Becky Baker,

Secretary, NCUA Board.

In proposed rule document 90-17146, beginning on page 29857, in the issue of Monday, July 23, 1990, the following correction is made:

On page 29858, third column, second paragraph, sixteenth line, change the number "3.96%" to read "3.00%".

[FR Doc. 90-18537 Filed 8-7-90; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 125, 171, and 172

RIN 1515-AA91

Delegation of Authority To Decide Penalties and Liquidated Damages Cases

AGENCY: Customs Service. TD.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations by increasing the authority of Customs field officers to act on certain supplemental petitions for relief in administrative cases involving penalties and forfeitures, or claims for liquidated damages, incurred for violations of the customs or navigation laws and regulations. The document also proposes the delegation of additional authority to Customs field officers regarding petitions and supplemental petitions on penalties and forfeitures incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). It is expected that this proposed delegation of increased authority to district directors will result in more expeditious processing of less complex cases, thereby benefiting the importing and traveling public. The authority to act beyond the increased limits of authority delegated to field officers would be retained by the Commissioner of Customs, insofar as it has been delegated by the Secretary of the Treasury.

DATES: Comments must be received on or before October 9, 1990.

ADDRESSES: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Sandra L. Gethers, Penalties Branch, (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), the Secretary of the Treasury is empowered to mitigate or remit fines, penalties, or forfeitures that are incurred under the customs or navigation laws. Section 623(c), Tariff Act of 1930 (19 U.S.C. 1623(c)), authorizes the Secretary to cancel any charge made against a bond for breach of any condition of the bond, upon payment of a lesser amount of penalty or upon such other terms and conditions as the Secretary may deem advisable. With certain stated exceptions, by paragraph 1(h) of Treasury Department Order No. 165, Revised (T.D. 53654), the Secretary delegated authority to the Commissioner of Customs to act on all cases where the claim for liquidated damages, fine or penalty (including the forfeiture) is not in excess of $100,000. This order granted full mitigation authority to the Commissioner for specifically listed violations, including all liquidated damages claims.

Customs continually monitors its efforts to efficiently and expeditously process penalties, seizures and liquidated damages cases. Delegation of certain responsibilities to the field and lessening the case load at Customs Headquarters has proven successful in the past as a means of decreasing Customs case handling time.

By Treasury Decision 85-25 (50 FR 7336) published on February 22, 1985, Customs amended §§ 171.21 and 172.21 to increase the authority of district directors to act on petitions for relief in administrative cases involving penalties, forfeitures or claims for liquidated damages. With the exception of penalties arising under section 1592, district directors were delegated initial authority not only to mitigate or remit fines, penalties, and forfeitures, but also authority to cancel any claims for liquidated damages arising from breaches of the terms or conditions of any bond, under §§ 172.21 and 172.21, Customs Regulations (19 CFR 171.21, 172.21), respectively, when the total amount does not exceed $100,000.

When Treasury Decision 85-25 was issued, certain other provisions of the regulations dealing with specific liquidated damages claims were not similarly amended to increase the authority delegated to district directors. Accordingly, it is now proposed to amend certain sections of part 10, part 18, and part 125, Customs Regulations (19 CFR parts 10, 18, and 125) which provide a limit of $50,000 or less for liquidated damages. The proposed amendments to the regulations would replace those limits with $100,000 as the appropriate limit for cases to be decided by Customs field offices.

1592 Cases

Regarding the remission of fines, penalties or forfeitures incurred under 19 U.S.C. 1592, district directors have been granted the authority by Customs to mitigate or remit when the total amount of those fines, penalties or forfeitures does not exceed $25,000. Treasury Decision 85-25 did not change this amount so § 171.21 still provides for the $25,000 limitation in § 1592 cases.

Customs now believes that Customs field officers are fully qualified to make decisions on petitions in cases involving Section 1592 penalty assessments of $50,000 or less. Customs bases this view on the degree of training that field officers have received and the overall improvement in the Fines Penalties and Forfeiture (FPF) program.

Supplemental Petitions

Pursuant to §§ 171.33 and 172.33 (19 CFR 171.33, 172.33), regional commissioners of Customs are currently empowered to consider supplemental petitions for relief in all cases acted upon by district directors, including cases arising under 19 U.S.C. 1592 when the total amount does not exceed $25,000, and supplemental petitions for relief arising from claims for liquidated damages when the total amount does not exceed $50,000. Except for penalty cases arising under § 1592, this document proposes to increase the field jurisdiction over supplemental petitions in both penalty cases and claims for liquidated damages, in §§ 171.33 and 172.33, respectively, to $100,000. For penalty cases incurred under section 1592, the document proposes to increase the authority of field officers to make decisions on supplemental petitions for relief when the amount does not exceed $50,000.

Headquarters jurisdiction over these supplemental petitions no longer is needed to maintain oversight of field operations, since the same functional responsibilities can be accomplished through the Automated Commercial System (ACS) and the FPF module that has been implemented therein, as well as through TECS II. Since the time of the last delegation to the field, there has been an increase in monitoring of field personnel by Headquarters, most notably illustrated through the creation of a Fines, Penalties, and Forfeiture Branch in the Office of Trade Operations at Headquarters, which serves this very purpose. Moreover, as was promised in connection with the delegation granted under T.D. 85-25, there has been extensive training of FPF personnel in field offices.

Certain Liquidated Damage Claims

For certain liquidated damages claims the district director is given full authority to act upon the claim, without regard to the amount of the claim. These claims, which include most notably the failure to file timely entry summaries, are outlined in § 172.22, Customs Regulations (19 CFR 172.22). This

document proposes to add a new subsection (e) to § 172.22 that would include cases arising under § 18.2(c)(2), Customs Regulations (19 CFR 18.2(c)(2)), for mechandise traveling under bond. Non-compliance with the time limits described therein generally results in the assessment of a claim for liquidated damages. The district director is delegated authority to handle these cases, regardless of amount, in accordance with guidelines published by the Commissioner of Customs.

Broker Penalties

This document also proposes to amend § 171.21 to specifically set forth an exception to the $100,000 delegation of authority to the field to mitigate penalties. The document proposes that the district directors may mitigate penalties incurred under the provisions of section 641(b)(6) or section 641(d)(1), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(6) and 1641(d)(1)) and assessed under section 641(d)(2)(A) (19 U.S.C. 1641(d)(2)(A) when the total amount of penalties does not exceed $10,000. Authority to review supplemental petitions would lie with the Regional Commissioner for penalties which do not exceed $10,000, pursuant to a proposed amendment to § 171.33. Broker penalties over $10,000 are mitigated by the Director, Regulatory Procedures and Penalties Division.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Regulatory Flexibility Act

Although this document is being issued with notice for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553, because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*).

Executive Order 12291

Because this document is related to agency organization and management it is not subject to E.O. 12291.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection; Imports.

19 CFR Part 18

Customs duties and inspection; Bonded shipments.

19 CFR Part 125

Customs duties and inspection; Delivery and receipt.

19 CFR Part 171

Customs duties and inspection; Administrative practice and procedures; Penalties; Seizures and forfeitures.

19 CFR Part 172

Customs duties and inspection; Administrative practice and procedures; Liquidated damages.

Proposed Amendments to the Regulations

Accordingly, it is proposed to amend parts 10, 18, 125, 171, and 172, Customs Regulations (19 CFR parts 10, 18, 125, 171, and 172) as set forth below.

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

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

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624.

§ 10.39 [Amended]

2. In § 10.39(e), remove the word "regulation" in the first sentence and add, in its place, the word "paragraph", and in the second sentence remove the amount "$50,000" and add, in its place, "$100,000".

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority for part 18 and relevant specific authority continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1624;
* * *

Section 18.8 also issued under 19 U.S.C. 1623.

§ 18.8 [Amended]

2. In § 18.8(d) remove the amount "$50,000" and add, in its place, "$100,000".

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. All authority citations set forth at the end of the individual sections of part 125 are removed and the authority citation at the beginning of part 125 is revised to read as follows:

Authority: 19 U.S.C. 66, 1565, and 1624.
Section 125.31 also issued under 5 U.S.C. 301; 19 U.S.C. 1311, 1312, 1484, 1555, 1556, 1557, 1623, and 1646a.
Sections 125.41 and 125.42 also issued under 19 U.S.C. 1623.
Section 125.33 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1623, and 1646a.
Section 125.41 and 125.42 also issued under 19 U.S.C. 1623.

§ 125.42 [Amended]

2. In § 125.42 remove the amount "$50,000" and add, in its place "$100,000".

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The general authority citation for part 171 continues to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624.
* * *

2. Section 171.21 is revised to read as follows:

§ 171.21 Petitions acted on by district director.

The district director may mitigate or remit fines, penalties, and forfeitures incurred under any law administered by Customs, with the exception of penalties or forfeitures incurred under the provisions of sections 592 and 641(b)(6) or (d)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1592 and 1641(b)(6) or (d)(1)), on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate, when the total amount of the fines and penalties incurred with respect to any one offense, together with the total value of any merchandise or other article subject to forfeiture or to a claim for forfeiture value, does not exceed $100,000. The district director may mitigate or remit fines, penalties, or forfeitures incurred under 19 U.S.C. 1592 when the total amount of those fines, penalties or forfeitures does not exceed $50,000. The district director may mitigate penalties incurred under 19 U.S.C. 1641(b)(6), 1641(d)(1), and

assessed under section 1641(d)(2)(A) when the total amount of the penalties does not exceed $10,000.

3. In § 171.33, paragraph (b)(1) and the heading of paragraph (d) are revised to read as follows:

§ 171.33 Supplemental petitions for relief.

* * * * *

(b) *Consideration*—(1) *Decisions of the district director.* Where a supplemental petition requests further relief from a decision of the district director, he may grant additional relief, if he believes it is warranted, in cases in which he has the authority to grant relief in accordance with the provisions of § 171.21. Supplemental petitions for further relief in cases initially decided by the district director in accordance with the provisions of § 171.21, together with all pertinent documents, shall be forwarded to the regional commissioner of the region in which the district lies if:

(i) There has been a specific request by the petitioner for review by the regional commissioner; or

(ii) The district director believes no additional relief is warranted.

* * * * *

(d) Appeals to the Secretary of the Treasury.* * *

PART 172—LIQUIDATED DAMAGES

1. The authority citation for part 172 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. Section 172.22 is revised by adding paragraph (e) to read as follows:

§ 172.22 Special cases acted on by district director of Customs.

* * * * *

(e) *Failure to timely deliver merchandise traveling inbond.* (1) If merchandise traveling under bond is not delivered to the port of destination or exportation within time limits established by § 18.2(c)(2), § 122.119(b) or § 122.120(c) of this chapter and liquidated damages are assessed for violation of the provisions of § 18.8(b) of this chapter, notwithstanding other delegations of authority, the demand shall be cancelled by the district director in accordance with guidelines issued by the Commissioner of Customs.

(2) If the in-bond manifest is not delivered to the district director as required by § 18.2(d) or § 18.7(a) of this chapter and liquidated damages are assessed for violation of the provisions of § 18.8(b) of this chapter, notwithstanding any other delegation of authority, the demand shall be cancelled by the district director in accordance with guidelines issued by the Commissioner of Customs.

3. Section 172.33(b)(1) is revised to read as follows:

§ 172.33 Supplemental petitions for relief.

* * * * *

(b) *Consideration*—(1) *Decisions of the district director.* Where a supplemental petition requests further relief from a decision of the district director, he may grant additional relief, if he believes it is warranted, in cases in which he has the authority to grant relief in accordance with the provisions of § 172.21. Supplemental petitions for further relief in cases initially decided by the district director in accordance with the provisions of § 172.21, together with all pertinent documents, shall be forwarded to the regional commissioner of the region in which the district lies if:

(i) There has been a specific request by the petitioner for review by the regional commissioner; or

(ii) The district director believes no additional relief is warranted.

* * * * *

Approved: August 1, 1990.

Carol Hallett,

Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 90-18505 Filed 8-7-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 90-047]

Port Access Routes, Off the Florida Coast

AGENCY: Coast Guard, DOT.

ACTION: Notice of study.

SUMMARY: The Coast Guard is conducting a port access route study, in conjunction with a vessel traffic study, to evaluate the need for vessel routing measures off the southern coast of Florida. As a result of the study, traffic separation schemes (TSS) or shipping safety fairways may be proposed in the Federal Register.

DATES: Comments must be received on or before October 9, 1990.

ADDRESSES: Comments should be mailed or delivered to Marine Safety Council, U.S. Coast Guard, Room 3406, 2100 Second Street, SW., Washington, DC 20593-0001. Comments received will be available for examination or copying at this address between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Robertson, Contracting Officer's Technical Representative, (202) 267-0357.

SUPPLEMENTARY INFORMATION: The Coast Guard has contracted TMA Corporation, Inc. to gather and analyze data necessary for the Coast Guard to make decisions regarding the need for routing measures off the Florida coast. Any subsequent rulemaking resulting from this study will be prepared by the Coast Guard.

Study Area

The study area encompasses the approaches to Miami and Port Everglades and south along the Florida Keys to Fort Jefferson, including the Straits of Florida.

Background

The 1978 amendments to the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223(c), require that a port access route study be conducted in any area for which TSSs or shipping safety fairways are being considered.

A traffic separation scheme is a designated routing measure which is aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

A shipping safety fairway is a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted.

The Coast Guard is undertaking a study of the potential vessel traffic density and the need for safe access routes for vessels operating in the approaches to the ports of Miami and Port Everglades, in addition to areas along the Florida Keys. The area was previously studied in 1979, and the results of the study were published on October 1, 1981, at 46 FR 48376. The study concluded that vessel traffic routing measures were unnecessary at that time.

Request for Comments

The Coast Guard is interested in receiving information and opinions from persons who have an interest in safe routing of ships in the study area. Vessel owners and operators, other waterway users, and environmental groups are specifically invited to comment on any positive or negative impacts they foresee, and to identify, and support with documentation, any costs or benefits which could result from the establishment of a TSS or shipping safety fairway.

Persons submitting comments should include their name and address, identify

this notice (CGD 90-047), and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. In addition to the the specific questions asked herein, comments from the maritime groups, and any other interested parties are requested. All comments received during the comment period will be provided to the TMA Corporation and will be considered in the study and in development of any regulatory proposals.

Issues

Preliminary discussions with Florida State officials and environmental groups indicate that there are numerous issues to be addressed with regard to vessel traffic along the southeastern coast and the Florida Keys. The Coast Guard will study these issues to determine whether vessel routing measures are needed. Particular issues to be examined during the study are:

a. Vessel traffic characteristics and trends, including traffic volume, the size and types of vessels involved, potential interferences with flow of commercial traffic, the presence of any unusual cargos, and other similar factors.

b. Port and waterway configurations and variations in local conditions of geography, climate, and other similar factors.

c. The proximity of fishing grounds, oil and gas drilling and production operations, or any other potential conflict of activity.

d. Environmental factors such as sensitive coral reefs.

e. Whether vessel traffic should be routed further seaward to protect the sensitive coral reefs. If so, how far and why this distance?

f. If traffic is moved further seaward, vessels will be pushed into the strong currents of the Gulf Stream. What effect, if any, will this have on navigation safety?

g. The scope and degree of risks or hazards involved.

h. Economic impact and effects.

Procedural Requirements

In order to provide safe access routes for movement of vessel traffic proceeding to or from U.S. ports, the PWSA directs that the Secretary designate fairways and traffic separation schemes in which the paramount right of navigation over all other uses shall be recognized. Before a designation can be made, the Coast Guard is required to undertake a study of the potential traffic density and the need for safe access routes.

During the study, the Coast Guard will consult with federal and state agencies and will consider the views of representatives of the maritime community, port and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed action.

In accordance with 33 U.S.C. 1223(c), the Coast Guard will, to the extent practicable, reconcile the needs of all other reasonable uses of the area involved. The Coast Guard will also consider its experience in the areas of vessel traffic management, navigation, shiphandling, the effects of weather, and prior analysis of the traffic density in certain regions.

The results of the study will be published in the **Federal Register**. If the Coast Guard determines that new routing measures are needed, a notice of proposed rulemaking will be published. It is anticipated that the study will be concluded by May 1991.

Dated: August 2, 1990.

J.W. Lockwood,

Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 90-18529 Filed 8-7-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-012; FRL-3818-9]

Approval and Promulgation of Implementation Plans; Tennessee: Revised SO_2 Limits for the New Johnsonville Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 2, 1983, the State of Tennessee submitted the SO_2 nonattainment plan for the New Johnsonville area. This submittal contained the control stragegy demonstration and the SO_2 emission limits for sources located in the nonattainment area. Action on this submittal was delayed when the February 8, 1982, stack height regulation was challenged and portions remanded on October 11, 1983. Several sources in the New Johnsonville area were affected by the remand. EPA promulgated new stack height regulations on July 8, 1985. Tennessee complied with the new federal regulations by demonstrating that all sources in the state met the new requirements and by developing new generic stack height regulations. These regulations became State-effective on November 22, 1987. On January 22, 1988, EPA's stack height regulations were, again, remanded. Although the latest stack height remand has not been settled, EPA is proposing approval of this nonattainment plan due to enforcement related issues. Also, on January 6, 1988, the State of Tennessee requested redesignation of the nonattainment area to attainment for both the primary and secondary SO_2 standards. Requests for redesignation of areas from nonattainment to attainment which are affected by any of the remanded provisions of the stack height regulations have been put on hold until EPA has completed any rulemaking necessary to comply with the court's remand. Therefore, EPA is not acting on this request.

DATES: To be considered, comments must reach us on or before September 7, 1990.

ADDRESSES: Written comments should be addressed to Beverly T. Hudson of EPA of Region IV's Air Program Branch (see EPA Region IV address below). Copies of the State's submittal are available for review during normal business hours at the following locations:

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

Tennessee Department of Health and Environment, Division of Air Pollution Control, 4th Floor Customs House, 701 Broadway, Nashville, Tennessee 37219-5403.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864.

SUPPLEMENTARY INFORMATION: In the early 1970's, Tennessee utilized the example region concept in establishing SO_2 emission limits for sources that were causing or contributing to ambient air violations. As a result of this example region concept, all power plants were limited to SO_2 emission limits of 1.2 lb/10^6 Btu. Tennessee Valley Authority's Johnsonville Steam Plant (TVA) was one of these facilities and is located in the New Johnsonville nonattainment area which includes part of Benton and Humphrey Counties.

During this same time period, TVA took the position that the 1970 Clean Air Act (CAA) did not require constant emission limits as the only mechanism for achieving the National Ambient Air Qaulity Standards (NAAQS). TVA had proposed to meet the ambient standards

thru the use of intermittent or supplemental controls. EPA and the three states that TVA operated in did not agree and required the emission limits to be continuously met. TVA took the issue to Court and the Supreme Court decision ratified the position of EPA and the states.

This resulted in TVA immediately being in noncompliance at most of its facilities. As a result, a consent decree was entered into on September 28, 1979 by EPA, the Commonwealth of Kentucky, and various public interest groups (Tennessee Thoracic Society, et al., and United States v. S. David Freemand, et al., Civil Action No. 7703286-NA-CV, United States District Court for the Middle District of Tennessee, Nashville Division). The consent decree required that TVA install 600 megawatts of SO_2 scrubber capacity and use a complying coal to meet an SO_2 emission limit of 3.4 lbs/mmBTU. Modeling showed that this SO_2 emission limit would protect the NAAQS. On December 22, 1980, the court issued a revised consent decree which no longer required the installation of scrubbers but maintained the 3.4 lb limit.

The State of Tennessee had chosen not to be a party to the consent decree and left the details of the final settlement to EPA and the other parties. Even though the SIP contained an emission limit of 1.2 for Johnsonville, EPA, et. al. agreed thru the consent decree that an emission limit of 3.4 would protect the NAAQS and agreed on this limit as part of the consent decree.

EPA then began negotiations with the Tennessee Air Pollution Control Division (TAPCD) in order to get the approved SIP limit of 1.2 revised to 3.4. Tennessee started this process and since they were dealing with a nonattainment area, all sources of SO_2 emission had to be analyzed and factored into the attainment demonstration. The major SO_2 sources were TVA's Johnsonville Steam Plant, Consolidated Aluminum Corporation (CONALCO), E.I. De Nemours Du Pont (Du Pont) and Inland Container Corporation. There were numerous smaller SO_2 sources and a listing of these can be found in the Technical Support Document. Emission limits for all the sources were developed thru the use of limits contained in the consent decree, modelling analysis and air quality data. The nonattainment plan predicted attainment of the primary and secondary SO_2 NAAQS by December 31, 1982, and December 31, 1987, respectively.

Since, the States's federally approved SO_2 emission limit of 1.2 lbs/mmBTU was never compiled with at the Johnsonville facility, no net increase in actual SO_2 emissions will result from the approval of this emission limit. In fact, a net reduction occurred as the Johnsonville facility had emissions in excess of 6.0 lb/mmBtu before the consent decree was filed.

Control Strategy Demonstration/Modeling

The modeling techniques used in the demonstration supporting this revision are for the most part based on modeling guidance in place at the time that the analysis was performed, i.e., the EPA "Guideline on Air Quality Models (1978)". The analysis supporting the control strategy and Benton/Humphreys Counties SO_2 reclassification was included in a July 9, 1986, letter (Bruce Miller of the Air Programs Branch to Joe Tikvart of the Source Receptor Analysis Branch and Tom Helms of the Control Programs Operation Branch) which listed sources and/or areas in Region IV to be grand-fathered under the 1978 EPA modeling practice. Since that time, revisions have been promulgated by EPA (51 FR 32176, September 9, 1986, and 53 FR 392, January 6, 1988). Since the modeling analysis was under way prior to the publication of the revised guidance, EPA accepts the analysis. If for some reason this or any other analysis must be redone in the future, then it must be done in accordance with current modeling guidance.

The models used were the Air Quality Display Model (AQDM), PTMTP, the single source dispersion model (CRSTER) and the Buoyant Line and Point Source Dispersion model (BLP). AQDM is a climatological steady state gaussian plume model that estimates annual arithmetic average SO_2 and particulate concentrations at ground level in urban areas. Five years (1966-1970) of meteorological data from the Nashville, Tennessee, National Weather Service (NWS) site was used in AQDM. PTMTP is a multiple source model which calculates hourly concentrations and the average concentration for several hours as a function of meteorological conditions as specified receptors. PTMTP was used to determine the three and 24 hour average concentrations. CRSTER is a steady state Gaussian dispersion model designed to calculate concentrations from point sources at a single location in either a rural or urban setting. CRSTER was run using the 1964 Nashville NWS data. The days representing adverse conditions were modeled by PTMTP using CRSTER output meteorology. The wind directions were modified to combine the most adverse dispersion parameters with source alignments causing maximum additive impacts. BLP is a Gaussian plume dispersion model designed to handle unique modeling problems associated with aluminum reduction plants and other industrial sources where plume rise and downwash effects from stationary line sources are important. Consolidated Aluminum Corporation is the only source modeled using BLP.

The New Johnsonville modeling analysis included two addendum. The first addenda resulted from a public hearing comment which revised some sources' emissions data and supported using BLP. The second addendum resulted from TVA's petition to establish an SO_2 emission standard for their boilers based on 24 hour average variability rather than the three hour average evaluated in the initial modeling.

In each submittal, analyses were done for three separate emission inventories; base year-1977, interim restriction (1982-1987) and the final RACT emissions.

The maximum concentrations for each analysis are listed in Table III of the Technical Support Document. The background concentration was supplied by the State. The three hour, 24 hour and annual background concentrations are 15, 5, and 2 ug/m^3, respectively. Adding these values to their respective averaging times yields a total three hour, 24 hour and annual concentration of 1003, 235 and 50 ug/m^3, respectively. The final RACT emission limits for the SO_2 sources, other than TVA, are contained in State regulation 1200-3-19-.14, Sulfur Dioxide Emission Regulations for the New Johnsonville Nonattainment Area, which are supported by the modeling results. Also, the SO_2 SIP limit for TVA New Johnsonville, which was relaxed from 1.2 to 3.4 lbs/MMBTU was based on the same modeling. Therefore, it was concluded that the modeled emissions limits would not cause or contribute to a violation of the SO_2 NAAQS in the New Johnsonville and surrounding areas.

Stack Heights

The New Johnsonville nonattainment plan has been affected by stack height issues since it was submitted. Action was delayed on the nonattainment plan due to the February 8, 1982 (47 FR 5864) stack height regulations challenged by the Sierra Club Legal Defense Fund, Inc., Natural Resources Defense Council, Inc. and the Commonwealth of Pennsylvania.

On October 11, 1983, the U.S. Court of Appeals for the District of Columbia ordered EPA to reconsider portions of the "stack height" regulations for stationary sources. *Sierra Club* v. *EPA*, 719 f.2d 436 (D.C. Cir., 1983). Those regulations, which implemented Section 123 of the Clean Air Act, were published at 47 FR 5864 (February 8, 1982). In its decision, the Court of Appeals struck down two provisions of those regulations:

1. The allowance of plume impaction credit, and
2. The setting of a two-stage process for State implementation.

The Court also remanded several other issues to the Agency for reconsideration:

1. The definition of "excessive concentrations,"
2. The definition of "dispersion techniques,"
3. The automatic allowance of credit for stack height increases where the resulting stack height is at or lower than the formula height,
4. The allowance of credit for new sources tied into old stacks which are above the GEP height,
5. The failure to set a specific "nearby" limitation for GEP demonstrations, and
6. Requiring sources claiming credit based on the 2.5H formula to demonstrate actual reliance on that formula.

The first three remanded issues affected the New Johnsonville submittal and action was stayed until new regulations could be promulgated.

On July 8, 1985 at 50 FR 27892, EPA published stack height regulations that resolved the overturned and remanded issues of 1983. This required Tennessee to demonstrate that sources in the state met the new requirements and to develop regulations complying with the federal regulations. Tennessee's regulations became State-effective on November 22, 1987. However, before EPA could process the nonattainment plan, the stack height regulations were, again, remanded. On January 22, 1988, U.S. Court of Appeals for the District of Columbia issued its decision in *NRDC* v. *Thomas*, 830 F. 2d 1244 (D.C. Cir. 1988) regarding the 1985 stack height regulations. Although the court upheld most provisions of the rules, three portions were remanded to EPA for review:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100 (kk)(2));
2. Dispersion credit for sources originally designed and constructed with merged or multiflue stack (40 CFR 51.100(hh)(2)(ii)(A)); and
3. Grandfathering of pre-1979 use of the refind H+1.5L formula (40 CFR 51.100(ii)(2).

The first issue of the remand affected the New Johnsonville area submittal. Again, the submittal was placed on hold.

Enforcement Issues

EPA has decided to act on the New Johnsonville nonattainment area plan due to potential enforcement related issues. EPA is concerned that the federally approved emission limits for the New Johnsonville area may be inappropriate. In order to avoid any enforcement complications, Region IV decided that it was in the best interest of EPA, the State of Tennessee and the SO_2 sources in the New Johnsonville area to process the revised emission limits. However, the State and the sources may need to be evaluated for compliance with any other later revisions to the stack height regulations as a result of the litigation.

Proposed Action

EPA's review of the Tennessee SIP revisions submitted August 2, 1983, indicated that the SO_2 NAAQS will be protected in the New Johnsonville area. Therefore, EPA is proposing to approve the revised SO_2 SIP applicable to the New Johnsonville area, except for the requests to redesignate areas from nonattainment to attainment for the primary and secondary SO_2 standards submitted January 6, 1988. Requests for redesignation which are affected by the remanded provisions of the stack height regulations have been put on hold until EPA completes any rulemaking necessary to comply with the court's remand. Today, EPA is soliciting public comments on the proposed action.

For further information on EPA's analysis, the reader may consult a Technical Support Document which contains a detailed review of the material submitted. This is available at the EPA address given previously. Interested persons are invited to submit comments on this proposed approval. EPA will consider all comments received within thirty days of the publication of this notice.

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).

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Sulfur oxides.

Authority: 42 U.S.C. 7401–7642.

Greer C. Tidwell,

Regional Administrator.

[FR Doc. 90–18556 Filed 8–7–90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 87-124; DA 90-1021]

Telephones for Use by Hearing Impaired

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 7, 1990, the Federal Communications Commission released a Further Notice of Proposed Rule Making seeking comments on proposed amendments to part 68 of its rules governing access to telephone services by the hearing impaired and other disabled persons. The further NPRM provides for a comment period ending August 1, and reply comments ending September 7, 1990. See, CC Docket 87–124, FCC 90–133 (55 FR 28781).

A motion for a 30-day extension of time has been filed by the North American Telecommunications Association (NATA) who pleads that the extension is needed to complete a survey of its members on the likely economic impact of the proposed rule changes and to analyze and incorporate the survey results in its comments. While "[i]t is the policy of the Commission that extensions of time

shall not be routinely granted" (47 CFR 1.46(a)), NATA has certified that copies of its motion were mailed on July 20, 1990 to all parties of record to the proceeding. The FCC has not received comments on that motion, and we are persuaded by the circumstances presented to grant NATA's request in part. Accordingly, we hereby extend the comment and reply comment period, pursuant to authority delegated in 47 CFR 0.291, as subdelegated.

DATES: The comment period for the Further NPRM is extended until August 27, 1990, and the reply comment period is extended until September 24, 1990. No further extension of time is anticipated.

ADDRESSES: Comments should be filed with the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cheilik, Domestic Services Branch, Common Carrier Bureau, (202) 634-1837.

SUPPLEMENTARY INFORMATION:

Order

In the Matter of Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons.

Adopted: July 31, 1990.

Released: August 1, 1990.

By the Chief, Domestic Faciltiics Division:

Before the Common Carrier Bureau is a Motion for Extension of Time, filed by the North American Telecommunications Association (NATA) for extension of the comment period in the above captioned proceeding until August 31, 1990. NATA claims that it needs to gather information as to expected costs incurred by manufacturers, distributors and users in order to comply with the proposed hearing aid compatibility requirement. It claims that preparation of comments in this proceeding is an unusually complex task. NATA certifies that copies of its motion were served on all parties of record, and no oppositions were received. It is the Commission's policy not to grant extensions routinely. However, the short extension sought by NATA is justified in this technically complex proceeding, given its potential impact on the parties noted by NATA. Accordingly, an extension of time for the filing of comments is granted until August 27, 1990. Reply comments will be due on September 24, 1990. No further extensions of time are anticipated.

Federal Communications Commission.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 90-18462 Filed 8-7-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposal to Determine the plant, Rhynchospora knieskernii (Knieskern's beaked-rush), to be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Rhynchospora knieskernii* (Knieskern's beaked-rush) as a threatened species. The species is currently known from twenty-two sites in the New Jersey Pinelands; however, many of these are small, unprotected populations. An early successful species and poor competitor, *R. knieskernii* is threatened by successional and other natural and man-induced factors affecting its wetland habitat, such as development, agriculture, and other activities influencing water quality and hydrologic regimes. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *R. knieskernii*. Critical habitat is not proposed. Comments on this proposal are solicited.

DATES: Comments from all interested parties must be received by October 9, 1990. Public hearing requests must be received by September 24, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to Supervisor, U.S. Fish and Wildlife Service, 927 North Main Street (Building D), Pleasantville, New Jersey 08232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Lynn Wilson, Fish and Wildlife Biologist (see "**ADDRESSES**" section) (609/646-9310).

SUPPLEMENTAL INFORMATION:

Background

The Knieskern's beaked-rush (*Rhynchospora knieskernii*), a member of the sedge family (Cyperaceae), is endemic to the Pinelands of New Jersey. Historically, thirty-eight sites were known in New Jersey. One historic Delaware site, known from a 1875 herbarium record from Sussex County, has not been relocated (Snyder and Vivian 1981). There is no specific locational information for this specimen, and some botanists question its validity, suggesting it may actually have been collected in New Jersey (James Stasz, *in litt.*, Botanist, 1989; David Snyder, pers. comm., New Jersey Natural Heritage Program, 1989). Approximately, twenty-two sites exist today, confined to four counties (Atlantic, Burlington, Ocean, Monmouth) in southern New Jersey.

The species was first discovered by Peter D. Knieskern, M.D. in Ocean County, New Jersey in 1843 (Stone 1973) who originally labelled specimens as *Rhynchospora grayana;* however, the species description was not published until John Carey did so in 1847 (Carey 1847), naming it after Dr. Knieskern. *Rhynchospora knieskernii* is an annual species which grows from 1.5 cm to 60 cm high and is slender with short narrowly linear leaves. Clusters of small flowers are numerous and contained at intervals along the length of the culm. Fruiting occurs from July to September.

P. D. Knieskern's *Catalogue of Plants Growing Without Cultivation in Monmouth and Ocean Counties, New Jersey,* published in 1857, described *R. knieskernii* as "rare." Much of this perceived rarity stemmed from the fact that from its discovery in the 1800's up to recent years, it was thought to be restricted to bog iron deposits within pitch pine lowland swales and pine barren savannas. These bog-iron beds are iron-coated surface sediment deposits formed by the oxidation of iron-rich sediments at aerated surfaces, such as streams and wetlands. Since 1984, additional occurrences on unvegetated, muddy substrates associated with abandoned clay pits, sand pits, railroads, paths, rights-of-way, and other disturbed, early successional areas have been discovered.

Of the twenty-two extant sites, six (all on State lands) are found on bog iron substrates. Two occurrences are on Federal land: one is located on property administered by the Federal Aviation Administration in Ocean and Burlington Counties and one is located at Naval Weapons Station Earl in Monmouth County. Remaining sites are located on private property.

Rhynchospora knieskernii is a rare species due to a combination of factors. Succession, biological circumstances, as well as documented and potential human disturbance, threaten many populations. Although the species receives some protection at sites under Federal or State jurisdiction, management is needed to maintain the species as its community experiences successional changes. The species occurs in groundwater-influenced, constantly fluctuating environments and

requires disturbance for successful colonization, establishment and maintenance. However, too much disturbance may eliminate populations. Many of the habitats supporting the species are unstable or ephemeral, such as tire ruts, paths, roadsides and ditches, and rights-of-way, where competition from natural and introduced species adversely affects populations.

Populations vary in size from the smallest sites containing about a dozen plants or occupying just a few square feet of habitat to the largest site occurring in patches covering at least 2 acres. In a status survey of extant occurrences conducted in 1984 and 1985 by the New Jersey Natural Heritage Program, over half of the populations were severely reduced or not found due to severe drought. Several other sites were inundated by water and thus were not relocatable. Of the extant occurrences, only five have been ranked by the New Jersey Natural Heritage Program as "A" rank occurrences, meaning that they are considered to have long-term viability. These are all in natural bog iron habitats. All other occurrences are in man-made habitats and are considered suboptimal in terms of site quality, quantity, and protection. At least six sites are being affected by succession. Several are threatened by development and human disturbance, including trash dumping, off-road vehicle use, and trampling. Field observations by the New Jersey Natural Heritage Program suggest that not all plants produce culms each year.

Wetland habitats in the New Jersey Pinelands have historically been subject to man-induced impacts from Atlantic white-cedar and pitch pine logging, bog iron excavation, glass and paper industries, charcoal production, and more recently from residential, commercial and industrial development, sand and gravel mining, expansion of roads, rights-of-way and other infrastructure, sewage disposal, landfills, and agricultural expansion. In addition to the direct loss of habitat, succession, changes in water quality and quantity, changes in nutrient levels, disturbances of soil, etc. have contributed to the decrease in available suitable habitat (Robichaud 1980; Roman and Good 1983).

Federal government action on this plant began as a result of Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened or extinct. This report (later published as Ayensu and DeFilipps 1978), designated as House Document No. 94–51, was presented to Congress on January 9, 1975. *R. knieskernii* was designated as "endangered" in that document. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) of the Endangered Species Act (now section 4(b)(3)) and of its intention to review the status of plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered pursuant to Section 4 of the Endangered Species Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received in relation to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Rhynchospora knieskernii* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (44 FR 17909). On December 10, 1978, the Service published a notice (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments to the Endangered Species Act. On December 15, 1980 (45 FR 82479) and September 27, 1985 (50 FR 99525), the Service published revised notices of review for native plants in the **Federal Register**. *R. knieskernii* was included in this notice as a category 1 species. Category 1 taxa are those taxa for which the Service presently has information to support a proposed rule.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *R. knieskernii*, because the 1975 Smithsonian report had been accepted as a petition. Each October, 1983 through 1989, the Service found that the petitioned listing of *R. knieskernii* was warranted but precluded by other listing actions of a higher priority.

In 1985, the Service contracted with The Nature Conservancy's Eastern Regional Office to conduct status survey work on *R. knieskernii* along with several other Federal candidate species. This report (Rawinski and Cassin 1986) updated Service informational files on this species and reconfirmed the need for listing of *R. knieskernii*. The February 21, 1990, notice of review (55 FR 6184) retained *R. knieskernii* as a category 1 species. This proposed rule constitutes the Service's final finding on the petition, required by the Endangered Species Act, to list *R. knieskernii*.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act and regulations promulgated to implement the listing provisions of the Endangered Species Act (50 CFR part 424) set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *R. knieskernii* Carey (Knieskern's beaked-rush) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* As an obligate hydrophyte, *R. knieskernii* is threatened by loss and degradation of its wetland habitat. The species has declined from a historic record of approximately thirty-eight sites to twenty-two extant, confined to Atlantic, Burlington, Ocean, and Monmouth Counties in southern New Jersey. Historically, the species was also known from Camden County. It is highly likely that additional sites once existed, but because the species habitat was once thought to be restricted to bog iron habitats, many habitats suitable by today's standards probably were not searched. Some New Jersey populations have been discovered using a soil-habitat predictive search (James Stasz, *in litt.*, 1989), but while additional populations may be discovered in the future, the species will probably always be considered rare.

Rhynchospora knieskernii is endemic to the Pinelands of New Jersey, an area whose history is one of repeated disturbance. Regular fires (now controlled) maintain the predominately oak/pitch pine dominated forest stands. Logging of pitch pine and Atlantic white-cedar, expansion of roads and infrastructure, bog iron works, glass making, paper industries, charcoal production, sand and gravel mining, agricultural expansion, and residential and commercial development have contributed to habitat loss and degradation in the Pinelands (Robichaud 1980; Pinelands Commission 1980). These activities have resulted in the extirpation of some species and

classification of others as endangered or threatened by the Pinelands Commission (1980); *R. knieskernii* is listed as "endangered" by the Pinelands Commission. With the advance of the casino gambling industry in southeastern New Jersey and the linking of major highways and railways to more developed parts of New Jersey and neighboring states, increased population growth is expected to lead to further reductions in suitable habitat.

Natural and man-induced succession has played a major role in the decline of the species from many sites (New Jersey Natural Heritage Program 1989) and continues to be the greatest threat to *R. knieskernii*. Pollutants such as agricultural fertilizers, pesticides, herbicides, and organic and inorganic wastes, entering streams directly or seeping through the soils to the groundwater and then to stream waters, have caused nutrient and pH changes that, in turn, have led to changes in the floral composition of the Pinelands (Pinelands Commission 1980). Nutrient influxes and sedimentation from adjacent development, landfills, sewage disposal areas, and other poorly enforced soil erosion control measures from other sources within the watershed probably serve as catalysts in increasing rates of succession by creating conditions favorable to more competitive species, such as red maple, poison ivy, honeysuckle, greenbriar, and Virginia creeper. *Rhynchospora knieskernii* occurs on unvegetated, muddy substrates of gravel, sand, or clay of ephemeral habitats such as tire tracks, paths, ditches and other disturbed areas, such as those found along powerlines, pond edges, roadsides, and railroads. Without management, these populations may decline in response to successional changes in vegetation over time. Maintenance of these habitats through mowing, pesticide applications, and conversion to other uses, could potentially impact the species; however, some form of habitat disturbance is necessary to maintain open habitat for the species. Bog iron habitats are naturally subject to erosion and other dynamic processes that tend to maintain early successional stages, although at least one of the occurrences on bog iron is susceptible to succession.

Rhynchospora knieskernii is influenced by fluctuating ground water levels. Water withdrawal from aquifers underlying the Pinelands affects the characteristic ecosystem by lowering the water table. Modification of groundwater supply as a result of adjacent withdrawal of irrigation water, and draining and ditching of lands for agriculture and residential and commercial development has adversely affected some populations. Conversion of wetlands for commercial cranberry production may threaten populations (Rawinski and Cassin 1986).

In some cases, manmade or man-altered wetlands left undisturbed for a period of years have developed vegetative characteristics similar to that found in natural intermittent ponds and shores, and have been found to support *R. knieskernii* (Rawinski and Cassin 1986). Habitats such as rights-of-way, abandoned cranberry bogs, former bog iron, sand and gravel mining pits have produced savannahs, ponds and other wetland habitats in which rare plant species, such as *R. knieskernii* may be found. However, these disturbed wetlands tend to be ephemeral in nature and thus probably do not represent habitats conducive to the long-term survival of the species.

Restricted today to the most densely populated State in the Nation, New Jersey's growth and development continues to encroach upon remaining suitable habitat for *R. knieskernii*. Although previously direct habitat loss was a great concern, today with the enactment of wetland protection laws, it is the indirect and cumulative effects of adjacent projects and other disturbances within the watershed that most seriously threaten *R. knieskernii*. Many habitats have been rendered unsuitable due to natural succession, changes in water quality and hydrologic regimes from sediment and nutrient influxes, and colonization by opportunistic plant species. Some activities that may adversely affect the species include draining or filling of wetlands; road, bridge, and railroad construction and maintenance; pipelines, transmission lines, and other linear developments and associated rights-of-way; and other development activities that directly or indirectly affect the species or its habitat.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Because of its lack of aesthetic character, most collections of *R. knieskernii* have been for scientific purposes. Plants have been taken for the purpose of documenting the species range and distribution, and some sites have been subject to frequent collection in the past. While collection has been relatively low in recent years, any future collections could seriously threaten populations, especially sites consisting of only a few plants or occupying a very small area.

C. *Disease or predation.* Disease is not known to be a threat of existing populations. The role of herbivory has not been determined.

D. *The inadequacy of existing regulatory mechanisms.* New Jersey has listed *R. knieskernii* on a recently proposed Endangered Plant Species List authorized by the Endangered Plant Species List Act (N.J.A.C. 7:5C). This list provides recognition to listed plants, but does not provide regulatory protection to the species in the form of prohibitions on collection or habitat loss or degradation.

The New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B–1 *et seq.*) prohibits regulated activities from jeopardizing threatened or endangered species or adversely modifying the historic or documented habitat of these species, but this protection only extends to plants if they are federally listed under the Endangered Species Act. Further, the New Jersey Freshwater Wetlands Protection Act does not pertain to areas under jurisdiction of The Pinelands Commission, where *R. knieskernii* occurs.

Pursuant to the policy to preserve, protect, and enhance the diversity of plant communities through regulation of development, the Pinelands Protection Act (N.J.S.A. 13:18–1 *et seq.*) states that no development within the Pinelands shall be carried out unless it is designed to avoid irreversible adverse impacts to the survival of populations of threatened or endangered plants listed therein. *Rhynchospora knieskernii* is listed as "endangered." This Act excludes the following from the definition of development: improvements, expansion, or reconstruction of single family dwellings or structures used for agricultural or horticultural purposes; repair of existing or installation of utilities to serve existing or approved development; and, clearing of less than 1,500 square feet (not wetlands or within 200 feet of a scenic corridor). Cranberry and blueberry production are considered by the Pinelands Commission to be part of the overall culture and character of the Pinelands and thus are encouraged forms of agriculture. Withdrawal of water for production of these berries as well as the conversion of reuse of sites for production may threaten some *R. Knieskernii* sites (Rawinski and Cassin 1986).

The regulations governing the Coastal Area Facility Review Act (N.J.S.A. 13:19–1 *et seq.*) state that habitat for endangered and threatened species on official Federal or State lists or under active consideration for inclusion on

either list will be considered "special areas." Development in these special areas is prohibited unless it can be shown that endangered or threatened wildlife or vegetative species habitat would not be adversely affected. Only one population of *R. knieskernii* occurs within the jurisdiction of this coastal legislation.

Existing regulations are inadequate to provide protection from deleterious disturbance, habitat loss and degradation, and biological limitations, which are major threats to the species. The New Jersey Pinelands Protection Act reduces threats to this rare species from some types of direct habitat loss, but exempts many categories of projects. Further, these regulations provide little or no protection from the indirect and cumulative impacts of adjacent projects and other deleterious disturbances within the watershed that alter water quality, hydrologic regimes, vegetative composition, and nutrient and sediment influxes.

E. *Other natural or manmade factors affecting its continued existence.* Changes in the water table have been associated with population fluctuations. During extremely wet periods, plants do not appear until water levels have dropped sufficiently to expose the shoreline. Similarly, during periods of drought, plants do not appear. The New Jersey Natural Heritage Program (1989) has suggested that several sites have problably been severely reduced by drought. Further, not all plants in a population produce culms each year (see Background).

At least two sites have been impacted by intense off-road vehicle use (New Jersey Natural Heritage Program 1989), which has compacted soils in some areas to the extent that the species cannot thrive. Because of its occurrence in disturbed areas, *R. knieskernii* is subject to trash dumping and trampling, which could become significant considering the low numbers of plants and small size of some populations, and the restricted distribution of the species.

Preliminary information suggests that the species requires some form of habitat manipulation to maintain the early successional habitats required for its establishment and maintenance. Natural forms of disturbance such as fires and erosion have been suppressed or controlled at many sites.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *R. knieskernii* in determining to propose this rule. Based on this evaluation, the preferred action is to list *R. knieskernii* as a threatened species. Federal listing will provide opportunities for protection of populations from natural and man-induced habitat loss and degradation, resulting from direct, indirect, and cumulative actions in the watershed. Although documented from 22 sites, the species is in need of protection because of threats of succession and competition from other species, habitat loss and degradation, human disturbance, and other factors such as fluctuating populations, small population size, and restricted range.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary proposed to be endangered or threatened. The Service finds that the designation of critical habitat is not presently prudent for this species, because of the potential for collection and vandalism that could result from the publication of a detailed critical habitat description and map. The majority of populations are located on private property, for which there is no protection against taking. Many sites are very small in size, occupying only a few square feet, thus loss of plants from vandalism or increased collection could potentially eliminate these populations. Prohibitions on taking from areas under Federal jurisdiction will be available at only two sites. The designation of critical habitat would not provide additional benefits to populations that do not already accrue from the listing through section 7 requirements and the recovery process. The U.S. Air Force, the Federal Aviation Administration, and the U.S. Navy have been informed regarding the presence of *R. knieskernii* on their properties and of the section 7 requirements. Populations located on State land are known to the stewarding agencies, who manage and protect the sites. Therefore, it would not now be prudent to designate critical habitat for *R. knieskernii*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the states and requires that recovery actions be carried out for all listed species. Such activities are initiated by the Service following listing. Some activities may be initiated prior to listing if circumstances permit.

Conservation and management of *R. knieskernii* will likely involve an integrated approach of site protection and habitat manipulation to maintain early successional habitats. Protection efforts will likely focus on reducing known threats, land acquisition, landowner agreements, and management of habitats to maintain conditions conducive to the species establishment and maintenance. It is also anticipated that listing will encourage research on critical aspects of the species population biology. Information regarding disturbance requirements for establishment and maintenance of populations, population fluctuations, seed production and seed banking, is needed. These factors will be important in long-term management considerations for individual populations.

The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Endangered Species Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carrry out are not likely to jeopardize the continued existence of such species or destroy or adversely modify its critical habitat. If a Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions that could affect *R. knieskernii* include the funding, authorization, and implementation of projects such as roads, railroads, bridges, sewerage and stormwater management pipes, pipelines, transmission lines and other rights-of-way, draining and filling of wetlands, and other development activities. The Service anticipates that applications for

permits issued by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act will be the most likely triggers for section 7 consultation for this species. However, the Service is not presently aware of any specific proposed projects that might affect known populations of *R. knieskernii*.

The Federal Aviation Administration administers property on which one population is located. The U.S. Air Force proposes to build a Northeast Regional Communications Facility and the Federal Aviation Administration proposes construction of a ground-to-air communication facility at this site. A second population occurs at Naval Weapons Station Earl. These agencies have been informed of the species presence and section 7 consultation requirements for activities that may affect the species. The Endangered Species Act directs Federal agencies to utilize their authorities in furtherance of the Endangered Species Act by carrying out programs for the conservation and recovery of listed species. Because maintenance and survival of populations will likely involve maintaining early successional habitats and eliminating potential threats to existing sites, the areas under Federal jurisdictional would benefit from habitat management by the respective agency.

The Endangered Species Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exemptions that apply to all threatened plants. All trade prohibitions of section (a)(2) of the Endangered Species Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession this species from areas under Federal jurisdiction. Seeds from cultivated plant specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. For plants, the 1988 amendments (Pub. L. 100-478) of the endangered Species Act also prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed species in knowing violation of any State law or regulation, including State criminal trespass law. Certain exemptions apply to agents of the Service and State conservation agencies. The Endangered Species Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or trade. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203 (703/358-2093).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are particularly sought concerning:

(1) Biological, commercial trade, or relevant data concerning any threat (or lack thereof) to *R. knieskernii*;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act;

(3) Additional information concerning the range, distribution and population size of the species; and,

(4) Current or planned activities that may impact existing populations.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication, of the proposal. Such requests must be made in writing and addressed to Supervisor, U.S. Fish and Wildlife Service (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, R., and R. DeFilipps. 1978. Endangered and Threatened Plants of the United States. Smithsonian Institution and World Wildlife Fund. 403 pp.

Carey, J. 1847. A New Species of *Rhynchospora*. The American Journal of Science and Arts. IV:25.

Knieskern, P.D. 1857. Catalogue of Plants Growing without Cultivation in Monmouth and Ocean Counties, New Jersey. True American Office, Trenton, New Jersey. 41 pp.

New Jersey Natural Heritage Program. 1989. Element Occurrence Records for *Rhynchospora knieskernii*.

Pinelands Commission. 1980. Comprehensive Management Plan for the Pinelands National Reserve and Pinelands Area. Pinelands Commission, New Lisbon, New Jersey. 439 pp.

Rawinski, T., and J. Cassin. 1986. Status of *Rhynchospora knieskernii*. Unpublished Report for the Fish and Wildlife Service, Newton Corner, Massachusetts. 4 pp.

Robichaud, B. 1980. A Conceptual Framework for Pinelands Decision Making. Center for Coastal and Environmental Studies, Rutgers University, New Brunswick, New Jersey. 78 pp.

Roman C., and R. Good. 1983. Pinelands Wetlands: Values, Function, and Man's Impacts. Center for Coastal and Environmental Studies. Rutgers University, New Brunswick, New Jersey. 106 pp.

Snyder, D., and E. Vivian. 1981. Rare and Endangered Vascular Plant Species in New Jersey. The Conservation and Environmental Studies Center, Inc. 98 pp.

Stone, W. 1973. The Plants of Southern New Jersey. Quarterman Publications, Inc., Boston, Massachusetts. 828 pp.

Author

The primary author of this rule is Lynn K. Wilson (see "ADDRESSES" section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of the chapter I, title 50 of the Code of Federal Regulations set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 State 3500; unless otherwise noted.

2. It is proposed to amend 17.12(h) by adding the following, in alphabetical order under the family Cyperaceae, to

the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cyperaceae—Sedge family:						
*	*	*	*	*	*	
Rhynchospora knieskernii	Knieskern's beaked-rush	U.S.A. (NJ, DE)	T		NA	NA
*	*	*	*	*	*	

Dated: July 17, 1990.

James C. Leupold,

Acting Director, Fish and Wildlife Service.

[FR DOc. 90-18567 Filed 8-7-90; 8:45am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Status of Three Species of Kangaroos

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service announces (1) receipt and availability of a petition "to reinstate the ban on commercial importation of kangaroos and kangaroo products into the United States" by removal or revision of the special rule, (2) availability of a report entitled "Review of Kangaroo Mangement—Australia, March 1990", prepared by Service employees, and (3) a review of the status of the three species of kangaroos listed as threatened under the Endangered Species Act, i.e., *Macropus giganteus, Macropus rufus,* and *Macropus fuliginosus.* These species were originally listed as threatened in 1974, and in 1981, the import of kangaroos and their parts and products was allowed under provisions of a special rule on the basis of conservation benefit accruing to the species under proper Australian state management programs that were required before importation would be allowed. Comments and information related to the points presented in the petition and the report, as well as additional information on the status of these species, are solicited.

DATES: Comments and information may be submitted until November 6, 1990.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington DC 20240. Comments and other inforamtion received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703-358-1708 or FTS 921-1708).

SUPPLEMENTARY INFORMATION: On December 30, 1974, the Fish and Wildlife Service (Service) listed the red kangaroo (*Macropus rufus*), the western gray kangaroo (*Macropus fuliginosus*), and all subspecies of the eastern gray kangaroo (*Macropus giganteus*) except the subspecies *M. g. tasmaniensis* as threatened under the Endangered Species Act of 1973 (the Act). The latter subspecies and seven other species of kangaroos and wallabies, as well as five species of rat-kangaroos, are classified as endangered. At the time the three threatened species were listed, the Service established a special rule that effectively placed a ban on commercial imports of kangaroos and their parts and products until effective Australian state management programs for these kangaroos were established. In April 1981, the Service lifted the import ban on these species on a trial basis. In Arpil 1983 (48 FR 15428), the Service proposed to continue allowing kangaroos and their parts and products to be imported into the United States and to remove the three species from the List of Endangered and Threatened Wildlife. Subsequently, the Service in August 1983 (48 FR 34757), published a rule permitting the continuation of imports, but in April 1984 (49 FR 17555), withdrew its proposal to delist the three species, citing population declines associated with widespread drought in southern and eastern Australia, as the reason for withdrawal. Since that time, the kangaroo populations have essentially recovered to pre-drought numbers, and harvest quotas and actual harvest have also increased.

The Service has continued to review the kangaroo situation as have other entities including the Congressional Research Service (CRS Report for Congress-Kangaroo Management Controversy, 1988) and the Australian Senate Select Committee on Animal Welfare (Kangaroos, 1988). Furthermore, in November 1989, the Australian National Parks and Wildlife Service and the Fish and Wildlife Service agreed to an on-site visit by Service employees.

Then, on December 20, 1989, the Fish and Wildlife Service received a petition from Greenpeace USA as filed under provisions of the Administrative Procedure Act. The petition to reinstate a ban on the commercial importation of kangaroos and kangaroo products through repeal of the special rule found in 50 CFR 17.40(a). The petition notes that the Fish and Wildlife Service has a statutory obligation to ensure conservation and protection of these three listed species. The Service determined that conservation of these species was accomplished/served with the adoption of effective Australian State management programs, but the petitioners contend that the management programs were not "devised to protect kangaroos and to ensure their role, over the entirety of their range, in the ecosystem of which they are a part", but "to legitimize commercial utilization of kangaroos". Furthermore, the petitioners contend that management programs are not adequate or effective, and specifically that (1) population data gathering and analysis are inadequate, (2) quotas are set without consideration of all relevant factors, (3) effective enforcement is lacking, especially enforcement of quota systems and monitoring of exports, and (4) management is reactive especially as it relates to changes in harvest schemes in response to droughts. The petitioners also question the withholding of information by Australian state and/or federal governments and the late

approval of state management plans and associated quotas. The petition provided additional focus on issues to be examined by the review team.

In March 1990, three Service employees visited Australia and endeavored to obtain as much objective information about kangaroo management as possible and to lsiten to all points of view. Members of the review team were especially familiar with population monitoring methods, tagging procedures for harvest programs, and law enforcement practices and procedures. The team investigated the population status (survey methods, numbers, and trends), the implementation of management programs, and the conservation benefit of approved harvest of kangaroos. The team spent an intensive 12 days in Australia and met with selected members of parliament, representatives of various non-governmental organizations, scientists, state and federal natural resource managers, enforcement personnel, grain growers, and ranchers. The team visited parks, open range, chillers, fauna dealers, ports, and exporters. The Service announces the availability of the report prepared by these three employees.

Comments Solicited

The Service now solicits additional relevant data, comments, and publications dealing with the status of the three threatened kangaroo species, and various aspects of the management programs. The Service is especially interested in information or assessments regarding the following topics:

(1) Ability to reduce harvest within a reasonable time period in order to address changed assumptions.

(2) Ability to reasonably detect illegal trade in skins and meat after the shaving process, such efforts might include use of tags/seals assigned by the shaver, improved recording system, increased inspection of exports, or listing under CITES so that export and import quantities could be compared, or appropriate combinations of some of these as well as other procedures.

(3) Additional information on magnitude of non-commercial harvest.

(4) Further analysis of kangaroo populations in Queensland where perhaps either the correction factors for aerial surveys should be improved, ground surveys strengthened in some areas or the validity of the Nance-Kirkpatrick model confirmed, or conservative quotas established.

(5) Information about the effect of the recent floods in Queensland and New South Wales on the kangaroo populations and harvest.

The Service is especially interested in actions taken on recommendations made by the Australian Senate Select Committee on Animal Welfare, especially as these relate to the above topics.

The Service will consider the status of the species and their habitat and those factors likely to affect the survival of the species, and based on all available information may decide:

(1) That the current special rule is still appropriate and that the Service should continue to assess the status of the species and the management programs; or

(2) That a special rule is appropriate, but that additional criteria should be included to enhance the conservation benefits for the species; or

(3) That the provisions of the special rule do not provide sufficient conservation benefits for the species or the provisions are not being properly implemented and that a ban on imports should be imposed, or the special rule repealed; or

(4) That the status of the species and the threats to their survival do not support the listing of one or more of the species, and that the species could be delisted. The status review to be conducted under this notice is intended to meet the requirements of section 4(c)(2) of the Act.

References Cited

Nichols, James D., S. Ronald Singer, and Jerome S. Smith. 1990. Review of Kangaroo Management—Australia. U.S. Fish and Wildlife Service unpublished report. v+71pp+Appendices.

Senate Select Committee on Animal Welfare. 1988. Kangaroos. Australian Government Publication Service, Canberra. 236pp.

Simmons, Malcolm M. 1988. Kangaroo Management Controversy. Congressional Research Service Report 88-468 ENR. vi+39pp

This document was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subject in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Dated: July 30, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-18566 Filed 8-7-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 251

[Docket No. 900235-0178]

Financial Aid Program Procedures; Fishery for Salmon in Alaska

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes to end the conditional fishery status for salmon in Alaska. Many interested parties, including the Governor of Alaska, have urged this. The result of discontinuation would be to remove restrictions on the use of financial aid programs in this fishery.

DATES: Comments will be received through September 17, 1990.

ADDRESSES: Send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, F/TS1, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr. (Financial Services Division, NMFS) at the address listed above or at 301-427-2393. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would remove §251.21 (Fishery for salmon in Alaska) from subpart B (Conditional Fishieries) of 50 CFR part 251.

Regulations governing NOAA's financial aid programs (50 CFR part 251) restrict their use in fisheries where their normal availability would be inconsistent "* * * with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources." A fishery so restricted is a conditional fishery. The Alaska salmon fishery has been a conditional fishery since September 23, 1974.

The State of Alaska has, since 1974, managed harvesting capacity in this fishery by combining a limitation on the total number of participants with restrictions on fishing times, areas, and gear. Alaska's governor has stated that the State's limited entry plan is sufficient to properly manage the Alaska salmon fishery. The Governor's letter, ugring NOAA to end this conditional fishery, stated in part: "Since the number of entry permits is fixed, use of these programs could not increase the number of vessels in the salmon fishery.

This action would simply allow fishermen to receive the same benefits from these Federal programs that other fishermen have enjoyed for years. It will encourage the upgrading of vessels and provide for more safe and efficient operations."

The fisheries financing programs restricted by the conditional fisheries rules are the Fisheries Obligation Guarantee and Fishing Vessel Capital Construction Fund programs.

The Fisheries Obligation Guarantee Program (Program), codified in 50 CFR part 255, gives the fishing industry access to the normal private market for long-term debt capital. This program provides financing or refinancing of the cost of constructing, recontructing, reconditioning, or purchasing fishing vessels and fisheries shoreside facilities. The Program generates lending capital in the private market by providing a Federal guarantee of private credits. The Program is self supporting.

The Fisheries Capital Construction Fund Program, codified in 50 CFR part 259, provides tax deferrals that help the fishing industry fund the equity portion of its long-term capital needs. Taxation may be deferred on fishing income reserved in a Capital Construction Fund for fishing vessel construction, reconstruction, or acquisition costs. All deferred taxes are eventually recaptured by reductions in the depreciation basis, for tax purposes, of vessels funded under this program.

Conditional fishery status makes new fishing vessel construction ineligible under both programs unless the new vessel replaces equivalent harvesting capacity.

Comments Received From Advance Notice of Proposed Rulemaking

Advance notice of this proposed rulemaking was published in the **Federal Register** on March 7, 1990 (55 FR 8157). Two hundred and fifty parties commented. All supported ending this conditional fishery. The most frequent comments were that the State of Alaska's long-standing salmon fishery management program is sufficient to properly manage this fishery, the State's entry limitation plan prevents additional harvesting capacity, the fishery's conditional fisheries status is inconsistent with the safety and stability of the fishing fleet, and the vessel replacement requirement associated with conditional fisheries status is a hardship that serves no useful purpose.

Response to Comments

After considering these comments, NOAA has decided to proceed with the proposed rulemaking. The State of Alaska's salmon fishery management program seems sufficient to manage, protect, and conserve the salmon fishery resource. The State's plan fixes the amount and type of fishing gear that can be operated, who can operate it, and when and for how long it can be operated. Fishing intensity is adjusted annually, on the basis of predicted resource availability and predicted catch, to provide for desired resource escapement.

Effect of Proposed Rule

Should this proposed rule be adopted, both the Fisheries Obligation Guarantee and Capital Construction Fund Programs may be used without regard to: (a) Whether fishing vessels newly constructed for this fishery replace other ones already in this fishery or (b) the fisheries status of vessels being reconstructed, reconditioned, acquired, or purchased for this fishery.

Measures contained in this proposed rulemaking would not be made retroactive and would not apply to any transaction occurring before the final rule's effective date. Any transaction occurring before that date would be bound by the present conditional fisheries restrictions.

Comments Invited

NOAA invites interested parties to participate in this proposed rulemaking by submitting any written views, data, arguments, or suggestions they believe may be helpful. Comments will not be individually answered but will be responded to in the final rulemaking document; comments will be reviewed, however, and may cause this proposed rulemaking to be changed. Those desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Classification

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291 because it will not result in an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; and will not result in a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it relates to financial assistance programs in which participation is voluntary and does not impose any cost, economic burden, or reporting burden on the industry. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism under E.O. 12612.

List of Subjects in 50 CFR Part 251

Administration practice and procedure, Fisheries, Fishing vessels, loan programs—business.

Dated: August 1, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 251 is proposed to be amended as follows:

PART 251—FINANCIAL AID PROGRAM PROCEDURES

1. The authority citation for part 251 is revised to read as follows:

Authority: Section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742); title XI, Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279); sec. 607, Merchant Marine Act, 1936, as amended (46 U.S.C. 1177); National Environmental Policy Act (42 U.S.C. 4321–4347); and Reorganization Plan No. 4 of 1970, 86 Stat. 909.

§ 251.21 [Removed and Reserved]

2. Section 251.21 is removed and reserved.

[FR Doc. 90-18411 Filed 8-7-90; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 153
Wednesday, August 8, 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

Animal and Plant Health Inspection Service

[Docket No. 90-139]

Receipt of Permit Applications for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment), in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organism	Field test location
90-177-01	Monsanto Agricultural Co.	06-26-90	Cotton plants genetically engineered to express a delta-endotoxin gene from *Bacillus thuringiensis* var. *kurstaki* for resistance to certain lepidopteran insects; or cotton plants genetically engineered to contain a gene which confers tolerance to the herbicide glyphosate.	Hawaii.
90-184-01	Monsanto Agricultural Co.	07-03-90	Soybean plants genetically engineered to contain a gene which confers tolerance to the herbicide glyphosate.	Puerto Rico.

Done in Washington, DC, this 2nd day of August 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-18531 Filed 8-7-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than August 31, 1990, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

	Period
Antidumping Duty Proceeding:	
Belgium: Industrial Phosphoric Acid (A-423-602)	08/01/89-07/31/90
France: Industrial Nitrocellulose (A-427-009)	08/01/89-07/31/90
Israel: Industrial Phosphoric Acid (A-508-604)	08/01/89-07/31/90
Italy: Granular Polytetrafluoroethylene Resin (A-475-703)	08/01/89-07/31/90
Italy: Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished (A-475-603)	08/01/89-07/31/90
Japan: Acrylic Sheet (A-588-055)	08/01/89-07/31/90
Japan: Brass Sheet and Strip (A-588-704)	08/01/89-07/31/90
Japan: Cadmium (A-588-035)	08/01/89-07/31/90
Japan: Certain High-Capacity Pagers (A-588-007)	08/01/89-07/31/90
Japan: Granular Polytetrafluoroethylene Resin (A-588-707)	08/01/89-07/31/90
Japan: Tapered Roller Bearings Four Inches or Less in Outside Diameter and Components Thereof (A-588-054)	08/01/89-07/31/90
Netherlands: Brass Sheet and Strip (A-421-701)	08/01/89-07/31/90
Taiwan: Clear Sheet Glass (A-583-023)	08/01/89-07/31/90
Thailand: Malleable Cast Iron Pipe Fittings (A-549-601)	08/01/89-07/31/90
The People's Republic of China: Petroleum Wax Candles (A-570-504)	08/01/89-07/31/90
Turkey: Acetylsalicylic Acid (Aspirin) (A-489-602)	08/01/89-07/31/90
Union of Soviet Socialist Rebublics: Titanium Sponge (A-461-008)	08/01/89-07/31/90
Venezuela: Certain Electrical Conductor Aluminum Redraw Rods (A-307-701)	08/01/89-07/31/90
Yugoslavia: Tapered Roller Bearings, and Parts Thereof, Finished or Unfinished (A-479-601)	08/01/89-07/31/90
Countervailing Duty Proceeding:	
Canada: Live Swine (C-122-404)	04/01/89-03/31/90
Israel: Industrial Phosphoric Acid (C-508-605)	01/01/89-12/31/89
New Zealand: Low-Fuming Brazing Copper Rod and Wire (C-614-501)	08/01/89-07/31/90
Thailand: Certain Circular Welded Carbon Steel Pipes and Tubes (C-549-501)	01/01/89-12/31/89
Turkey: Acetylsalicylic Acid (Aspirin) (C-489-603))	01/01/89-12/31/89
Venezuela: Certain Electrical Conductor Aluminum Redraw Rod (C-307-702)	01/01/89-12/31/89
Zimbabwe: Carbon Steel Wire Rod (C-796-601))	01/01/89-12/31/89

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with section 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by August 31, 1990.

If the Department does not receive by August 31, 1990 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: August 1, 1990.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 90-18476 Filed 8-7-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-007]

Sheet Piling From Canada, Preliminary Results of Administrative Review and Invitation for Comment on Antidumping Duty Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review and invitation for comment on antidumpting duty suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement to suspend the antidumping investigation on sheet piling from Canada. The review covers Casteel, Inc., a manufacturer and exporter accounting for substantially all Canadian sheet piling shipped to the United States, and its U.S. subsidiary, Casteel USA, Inc., and the period September 1, 1985 through August 31, 1986. As a result of the review, the Department preliminarily finds that Casteel has not eliminated its sales at less than fair value and therefore is in violation of the suspension agreement. Consequently, the Department intends to cancel the suspension agreement. Interested parties are invited to comment on these preliminary results and intent to cancel the agreement.

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Chip Hayes or Rich Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-1131.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 40683) a notice of suspension of antidumping duty investigation on sheet piling from Canada. On October 24, 1986, (51 FR 37770) we initiated an administrative review. The Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of sheet piling of iron or steel, classified during the period of review under items 609.9600 and 609.9800 of the Tariff Schedules of the United States Annotated (TSUSA). As of January 1, 1989, this merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item 7301.10.00. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Casteel, Inc., a manufacturer and exporter accounting for substantially all Canadian sheet piling shipped to the United States and its U.S. subsidiary, Casteel USA, Inc.,

and the period September 1, 1985 through August 31, 1986.

Terms of the Suspension Agreement

Casteel agreed to make any necessary price revisions to eliminate completely any amount by which the foreign market value of sheet piling, as determined by the price of such or similar merchandise in Canada, exceeds the United States price of the product by ensuring that:

1) (B)eginning on the effective date of the suspension of the investigation, the price Casteel will charge any U.S. importer or customer for all entries of sheet piling which are enterd into the United States, or withdrawn from warehouse, for consumption in the United States, will not be less than the foreign market value of the product, using the methodology currently employed by the Department on the date of the signing of this agreement; and

2) (S)ubsequent price adjustments will be made by Casteel as necessary to ensure that future sales of sheet piling, exported directly from Canada or through third countries, to the United States will not be made at less than foreign market value as determined in accordance with the statute and the Department of Commerce regulations * * * . The Department shall advise Casteel of the method to be used in making fair value calculations. The Department reserves the right to modify its methodology at any time. (47 FR 40683).

United States Price

In calculating United States price the Department used exporter's sales price ("ESP"), as defined in section 772(c) of the Tariff Act. ESP was based on the f.o.b. or delivered prices to the first unrelated purchaser in the United States.

We made deductions, where appropriate, for foreign and U.S. inland freight and insurance, U.S. customs duties, U.S. sales taxes, credit expenses, sales promotion, commissions to unrelated parties, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

L.B. Foster Company (Foster), an interested party in the suspension agreement by virtue of being a domestic wholesaler and distributor of sheet piling, alleged the leasing of sheet piling by Casteel USA was equivalent to sales of piling, and therefore should be examined for sales at less than fair value. We examined Casteel's lease transactions using criteria provided by section 1327 of the Omnibus Trade and Competitiveness Act of 1988, Public Law No. 100–418, 102 Stat. 1107 (1988) (1988 Act), and preliminarily determine that Casteel's lease transactions are not equivalent to sales. (See memorandum of July 5, 1990 in the administrative record.) Consequently, we have not included lease transactions in our calculation of sales at less than fair value.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price as defined in section 773 of the Tariff Act, since there were sufficient sales of such or similar merchandise in the home market. Home market price was based on f.o.b. factory prices to unrelated purchasers in the home market. Where applicable, we made adjustments for sales promotion, differences in the physical characteristics of the merchandise, and indirect selling expenses to offset U.S. selling expenses deducted in ESP calculations, but not for amounts exceeding the U.S. expenses.

Foster alleged that Casteel sold sheet piling in the home market at prices below their cost of production. We considered the allegation sufficient to warrant a below-cost investigation. As a result of our investigation, we preliminarily found no below-cost sales. Therefore, we included all of Casteel's home market sales in our calculation of FMV.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine the dumping margin on entries by Casteel for the period September 1, 1985 through August 31, 1986 to be 13.4 percent.

Based on the presence of sales at less than fair value, we preliminarily determine that there is reason to believe that Casteel has violated the suspension agreement. Therefore, we preliminarily determine to cancel the suspension agreement and resume the investigation of sales at less than fair value as set forth in section 734(i) of the Tariff Act.

Interested parties may submit case briefs on these preliminary results and intent to cancel the suspension agreement within 30 days of the date of publication of this notice and may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after the submission of the initial round of comments. The Department will publish the final results of the administrative review and its decision regarding the cancellation of the suspension agreement, including the results of its analysis of issues raised in any case or rebuttal briefs or at any hearing.

This administrative review, intent to cancel suspension agreement, and notice are in accordance with sections 751(a)(1) and 734(i) or the Tariff Act (19 U.S.C. 1675(a)(1) and 1673(c)(i)) and §§ 353.22 and 353.19 of the Commerce Regulations (19 CFR 353.22 and 353.19).

Dated: July 27, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–18503 Filed 8–7–90; 8:45 am)

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Statement of Organization, Practices and Procedures

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

Pursuant to section 302(f)(6) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, each Regional Fishery Management Council (Council) is responsible for carrying out its functions under the Magnuson Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce (Secretary). Further, each Council must make available to the public a statement of its organization, practices and procedures (SOPP).

On January 17, 1989, NOAA published in the **Federal Register** (54 FR 1700) a final rule that revised the regulations (50 CFR parts 600, 601, 604, and 605) and guidelines concerning the operation of the Councils under the Magnuson Act. The final rule, effective February 16, 1989, implemented parts of title 1 of Public Law 99–659, amending the Magnuson Act, and among other things, clarified instructions of the Secretary on other statutory requirements affecting the Councils.

In accordance with the above-mentioned final rule, the Pacific Fishery Management Council (Pacific Council) has prepared its revised SOPP originally published in the **Federal Register**,

February 15, 1984 (49 FR 5807). Interested parties may obtain a copy of the Pacific Council's revised SOPP by contacting Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, suite 420, Portland, OR 97201; telephone: (503) 221-6352.

Dated: August 2, 1990.

Joe P. Clem,

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

[FR Doc. 90-18563 Filed 8-7-90; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

Information on Methylene Choride-Containing Products; General Order for Submission

AGENCY: Consumer Product Safety Commission.

ACTION: Notice and Issuance of General Order.

SUMMARY: The Consumer Product Safety Commission ("Commission") is ordering manufacturers, importers, packagers, and private labelers of consumer products containing 1% or more of methylene chloride, also known as dichloromethane, ("DCM") to report to the Commission certain information, as specified below, on the characteristics, labeling, and marketing of their products. This Order is part of an effort by the Commission staff to evaluate the Commission's policy concerning labeling of consumer products containing DCM. The Commission has previously determined that such products are hazardous substances and, thus, under the Federal Hazardous Substances Act ("FHSA") must be properly labeled. Authority for this General Order is provided by section 27(b)(1) of the Consumer Product Safety Act ("CPSA"), which allows the Commission to require production of information related to the Commission's regulatory or enforcement functions, and by the Commission's regulations.

DATES: Responses should be submitted by September 7, 1990.

ADDRESSES: Responses should be sent to Directorate for Economic Analysis, Room 656, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Glenn Simpson, Directorate for Economic Analysis, Room 656, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6962.

SUPPLEMENTARY INFORMATION:

A. Background

1. History of Commission Action on Methylene Chloride

The Commission's activity concerning methylene chloride ("DCM") has been based on evidence that inhalation of DCM vapor can cause an increased incidence of benign and malignant tumors in rats and mice. Based on concerns about test results in animals, the Commission published a proposed rule in the **Federal Register** on August 20, 1986, to declare a DCM a hazardous substance. 51 FR 29778 (1986). The Commission considered the comments submitted in response to the proposed rule, and determined that, rather than continue the rulemaking proceeding, it would issue a statement of interpretation and enforcement policy. 52 FR 34700 (1987).

On September 14, 1987, the Commission published an interpretation and enforcement policy that advised manufacturers of DCM-containing products that such products are hazardous substances due to a potential risk of human carcinogenicity to users. 52 FR 34698 (1987). The policy is not a binding rule, but is a notice of the Commission's intention to enforce the labeling provisions of the FHSA with regard to such consumer products. The policy stated the Commission's belief that manufacturers of DCM-containing products would voluntarily begin to incorporate appropriate required labeling. The policy expressed the Commission's intent to allow 6 months from the publication of the policy for manufacturers to adopt revised labeling, after which the Commission would bring enforcement actions against inproperly labeled products, or against manufacturers, distributors, or retailers of such products. *Id.* at 34700. The Commission anticipated that a review of the effectiveness of labeling would be conducted in the future to determine whether further action would be necessary.

Subsequently, on July 27, 1988, the Commission approved a plan by the staff to assess the effectiveness of product labeling of DCM-containing products. This Order is part of that assessment effort. Responses to this Order will provide information on the current use of DCM in the consumer products which will enable the Commission to evaluate the effectiveness of the policy. In order to evaluate the risk to consumers, the staff must acquire information concerning the composition of consumer products containing DCM, the market for these products, and how the labeling of such products communicates potential risk.

2. Authority For General Orders

Section 27(b)(1) of the CPSA authorizes the Commission to require, by special or general order, person(s) to submit reports or answer questions as the Commission prescribes in carrying out its regulatory and enforcement functions. 15 U.S.C. 2076(b)(1). Regulations issued pursuant to the CPSA reiterate the Commission's authority to issue special or general orders. 16 CFR 1118.8. Answers to general or special orders must be given under oath or pursuant to a declaration that the information is true and correct. *Id.*; 28 U.S.C. 1746.

This notice directed to manufacturers and other producers of consumer products containing DCM is such a general order. Submission of the ordered information is mandatory under section 19(a)(3) of the CPSA which makes it unlawful for any person to fail or refuse to provide information required by the CPSA. 15 U.S.C. 2068(a)(3). A knowing violation of section 19 subjects a person to a civil penalty of up to $2000 for each violation. *Id.* § 2069(a).

B. Persons Subject to Order

This Order applies to manufacturers, importers, packagers and private labelers of consumer products currently produced (as of the date of the issuance of the General Order) that contain 1% or greater of DCM. Information available to the Commission indicates that products in the following categories contain such levels of DCM, or contained DCM at the time the enforcement policy was published.

(1) Paint strippers.
(2) Adhesive removers.
(3) Spray shoe polish.
(4) Adhesives and glues.
(5) Paint thinners.
(6) Glass frosting and artificial snow.
(7) Water repellants.
(8) Wood stains and varnishes.
(9) Spray paints.
(10) Cleaning fluids and degreasers.
(11) Automobile spray primers.
(12) Products sold as DCM.

This list is offered as guidance only, and is not to be interpreted as inclusive. Manufacturers, importers, packagers, and private labelers of types of consumer products that contain DCM but are not on the list, also must submit responses to the Commission.

C. Environmental Effects

The Commission's regulations governing environmental review provide that the issuance of a general order is

the type of activity that normally has little or no potential for affecting the human environment. *See* 16 CFR 1021.5(c)(7). The Commission does not foresee any exceptional circumstances affecting this General Order. Therefore, the Commission finds that no environmental assessment or environmental impact statement is required.

D. The General Order

Manufacturers, importers, packagers, and private labelers of consumer products containing 1% or more of DCM, as of the date of issuance of this General Order, shall submit to the Commission for each product prior to September 7, 1990, the following information:

(1) Category of each product(s) (*e.g.* paint stripper, paint, etc.).

(2) Brand name(s) of each product. If production is made for a private label, manufacturer or importer shall submit for the private label the brand names and the other information required by this Order, to the extent known, or provide information concerning the distributor so that the CPSC may obtain this information directly from the distributor.

(3) Percentage of DCM (expressed by weight) in formulation(s) for each product containing DCM.

(4) Total sales of each size of any and all products containing DCM for calendar year 1989 (units and weights per unit).

(5) Marketing area for each product, that is, national or more limited region (*e.g.* particular states). If the marketing area is not national, specify the particular area where each product is marketed.

(6) Label or label facsimile for each product, packaging type and size.

(7) Each respondent also shall provide: Name and address of company, Size of firm (1989 sales and number of employees), Type of firm (manufacturer, distributor, etc.), Name, position, and telphone number of person to contact for clarifying questions.

The response to this General Order shall be signed by a responsible executive officer of the firm. The response shall contain the following signed declarations:

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

[signature]

[date]

If a respondent believes that any information furnished in response to this Order is a trade secret or proprietary, it should claim so when submitting the information. Information claimed trade secret or proprietary will be received and handled in a confidential manner. 15 U.S.C. 2055(a). It will not be placed in a public file and will not be made available to the public simply upon request. If the Commission receives a request for disclosure of the information, or otherwise believes it desirable to disclose the information to carry out its legal responsibilities, the Commission shall inform the respondent and give the manufacturer an opportunity to present additional information and views regarding the confidential nature of the materials. The determination with respect to release of the information will be based on the applicable aprovisions of (1) the CPSA, (2) the Freedom of Information Act, (3) 18 U.S.C. 1905, (4) the Commission's regulations on the protection and disclosure of information under the Freedom of Information Act, 16 CFR part 1015, and (5) recent judicial interpretation of these provisions. No publication of information designated trade secret or proprietary will be made until the issue of its designation has been resolved in accordance with applicable law.

The reporting requirement contained in the Order has been approved by the Office of Management and Budget under OMB Approval Number 3041-0093, and expires on December 31, 1990.

This General Order is issued pursuant to section 27(b)(1), and section 5 of the CPSA, 15 U.S.C. 2076(b)(1) & 2054, and Commission regulations at 16 CFR 1118.8.

Dated: August 1, 1990.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 90-18473 Filed 8-7-90; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 4, 1990; Tuesday, September 11, 1990; Tuesday, September 18, 1990; and Tuesday, September 25, 1990 at 10 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Dated: August 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-18548 Filed 8-7-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Performance Review Boards; List of Members

Below is a list of additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Office of the Secretary of the Air Force

Ms. Elizabeth J. Keefer
BG (select) John O. McFalls, III
BG (select) Hallie E. Robertson

Air Staff
MG Albert J. Edmonds
MG Eugene H. Fischer
MG George B. Harrison
MG Henry M. Hobgood
MG Charles A. May, Jr.
Air Force Logistics Command
Mr. Thomas L. Miner
Air Force Systems Command
BG Lester L. Lyles

Patsy J. Conner,
Air Force Federal Register Liaison Officer.
[FR Doc. 90-18492 Filed 8-7-90; 8:45 am]
BILLING CODE 3910-01-M

Department of the Army

Performance Review Board Membership; Senior Executive Service

ACTION: Notice.

SUMMARY: Notice is given of the name of an additional member of the Performance Review Board for the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Beverley McDaris, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, (Room 2C670), Washington, DC 20310-0300.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The additional member of the Performance Review Board for the Consolidated Commands is: Mr. Thomas J. Edwards, Assistant Deputy Chief of Staff for Training Policy, Plans and Programs, Headquarters, U.S. Army Training and Doctrine Command.

Kenneth L. Denton,
Alternate Army Federal Register Liaison Officer.
[FR Doc. 90-18494 Filed 8-7-90; 8:45 am]
BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974; Amendment of Two Record Systems

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amend two record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for public comment.

SUMMARY: The Defense Logistics Agency proposes to amend two existing record system notices to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed actions will be effective without further notice on September 7, 1990, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA-XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100. Telephone (202) 274-6234 or Autovon 284-6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51898, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (DLA Address Directory)

The amended systems reports do not require a submission of a new or altered system report. The specific changes to the amended record systems, followed by the record systems in their entirety, are set forth below.

Dated: August 2, 1990.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

System name:

Defense Manpower Data Center Data Base (53 FR 44937, November 7, 1988).

Changes:

* * * * *

Categories of individuals covered by the system:

In the first line, add "Uniformed Services" after "All". After "civilian occupational information", and "civilian and military acquisition workforce warrant, training and job specialty information".

Categories of records in the system:

At the end of the entry, add "Criminal history information on individuals who subsequently entered the military."

* * * * *

Purpose(s):

At the end of the entry, add a new paragraph "All records in this system are subject to use in authorized computer matching programs under the Privacy Act of 1974, as amended, (5 U.S.C. 552a)."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete the tenth paragraph which begins with "Federal Government and Quasi-Federal Agencies".

Add to the end of the eleventh paragraph "To return unclaimed property or assets to employees and to provide members and former members with information and assistance regarding benefit entitlement".

At the end of the entry, add a new paragraph "All records in this system are subject to use in authorized computer matching programs under the Privacy Act of 1974, as amended, (5 U.S.C. 552a)."

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93920-5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93920-5000.

Decentralized segments—Portions of this file may be maintained by the military personnel and finance centers of the services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Uniformed Services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for

these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees separated since January 1, 1971. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Heatlh and Human Services National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Veterans Administration; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Veterans' Administration or who are covered by a Veterans' Administration insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of name, Service Number, Selective Service Number, Social Security Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acqusition workforce warrant, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; and home and work addresses.

CHAMPUS claim records containing enrollee, patient and provided data such as cause of treatment, amount of payment, name and social security or tax ID of providers or potential providers of care, military compensation data, selective service registration data, Veterans' Administration disability payment records and credit of financial data as required for security background investigations.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, 2358, and 2397; Pub. L. 97–252; Pub. L. 97–365; and Executive Order 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, and to collect debts owed to the United States Government and state and local governments.

All records in this system are subject to use in authorized computer matching programs under the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Veterans' Administration (VA) to administer VA and DoD programs for Reserve Pay, Va compensation, military retired pay and active duty separation payments. To analyze the cost to the individual of military service connected disabilities, to monitor the amount of coverage under the Veterans' Group Life Insurance program, and to provide information on individual eligibility for GI Bill education and training benefits.

To the VA and its contractor, the Prudential Insurance Company to notify members of the Individual Ready Reserve (IRR) of their right to apply for Veterans' Group Life Insurance coverage.

To the VA Management Sciences Division, Statistical Policy and Research Office, Office of Information Management and Statistics, for the purpose of selection samples for surveys asking veterans about the use of veteran benefits and satisfaction with VA services, and to validate eligiblity for VA benefits.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for debt collection. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS), Office of the Inspector General, for the purpose of identification and investigation of DoD employees (military and civilian) who may be improperly receiving funds under the Aid to Families of Dependent Children Program. To the office of Child Support Enforcement, pursuant to Pub. L. 93–647, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Social Security Administration (SSA), Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

To the Bureau of Supplemental Security Income for the purpose of verification and adjustment of payments made by the SSA to the active and retired military members under the Supplemental Security Income Program.

To DoD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Office of Personnel Management (OPM) for the purposes of OPM carrying out its management functions. Records disclosed concern pay, benefits, retirement deductions, and other information necessary for those management functions.

To the Selective Service Systems (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations.

To the Department of Education (DOE) for the purpose of identifying individuals who appear to be in default of their guaranteed student loan to permit DOE to take action, where appropriate, to accelerate recovery of defaulted loans.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment

compensation payments made on behalf of former DoD employees and members.

To Federal and Quasi-Federal Agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To help eliminate fraud and abuse in their benefit programs and to collect debts and overpayments owed to these programs. To return unclaimed property or assets to employees and to provide members and former members with information and assistance regarding benefit entitlement. Information released includes name, Social Security Number, and military address of individuals.

To other Federal and Quasi-Federal Agencies to help eliminate fraud and abuse in the programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government. Information released may include aggregate data and/or individual records in the record system may be transferred to any other Federal agencies having a legitimate need for such information and applying appropriate safeguards to protect data so provided. Records of debtors obligated to DoD, but currently employed by another Federal agency, may be referred to the employing agency under the provisions of the Debt Collection Act of 1982 for compliance or collection purposes.

To credit bureaus and debt collection agencies to comply with the provisions of the Debt Collection Act of 1982 (10 U.S.C. 136) for nonpayment of an outstanding debt, and to comply with requirements to update security clearance investigations.

To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial institutions to contact employees to avoid escheatment of an employee's account or to otherwise benefit employees.

To a state, local, or territorial government to return unclaimed property or assets to employees.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation of record system notices also apply to this record system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center—Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, suite 155A, Monterey, CA 93940-2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, suite 155A, Monterey, CA 93940-2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, suite 155A, Monterey, CA 93940-2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Veterans' Administration, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

S352.10 DLA-KW

System name:

Nominations for Awards (50 FR 22930, May 29, 1985).

Changes:

System name:

Delete entire entry and substitute with "Award, Recognition, and Suggestion File."

* * * * *

Categories of individuals covered by the system:

Delete entire entry and substitute with "Individuals assigned to DLA who are nominated for awards or recognition and those who have submitted suggestions".

Categories of records in the system:

Delete entire entry and substitute with "Justifications and background material submitted in support of award and suggestion programs, including evaluation statements, photographs, Social Security Number, reports submitted to the Office of the Secretary of Defense and the Office of Personnel Management."

* * * * *

Retention and disposal:

Delete entire entry and substitute with "Files are closed upon completion of the action, cut-off at the end of the fiscal year, held for two years, and then destroyed."

* * * * *

S352.10 DLA-KW

SYSTEM NAME:

Award, Recognition, and Suggestion File.

SYSTEM LOCATION:

Organizational elements of Headquarters, Defense Logistics Agency (HQ DLA) DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned to DLA who are nominated for awards or recognition and those who have submitted suggestions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Justifications and background material submitted in support of award and suggestion programs, including evaluation statements, photographs, Social Security Number; reports submitted to the Office of the Secretary of Defense and the Office of Personnel Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4506; 10 U.S.C. 1124; Chapter 451 of the Federal Personnel Manual.

PURPOSE(S):

Information is maintained in support of actions taken on contributions and award nominations and for preparation of statistical and narrative reports required by the Office of the Secretary of Defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Defense Logistics Agency "Blanket Routine Uses" set forth at the beginning of DLA's listing of record system notices.

Information is also used by members of other Federal activities and members of private organizations to evaluate nominations for awards sponsored by them for which DLA personnel are nominated; or to evaluate for possible adoption and use contributions and suggestions made by DLA personnel that concern their operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders, card index files, and registers in notebooks

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Maintained in locked containers in areas accessible only to DLA personnel.

RETENTION AND DISPOSAL:

Files are closed upon completion of the action, cut-off at the end of the fiscal year, held for two years, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Workforce Effectiveness and Development Division, Office of Civilian Personnel, HQ DLA, Cameron Station, Alexandria, VA 22304–6100 and Civilian Personnel Offices of DLA PLFAs. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address inquiries to the Chief, Workforce Effectiveness and Development Division, Office of Civilian Personnel, HQ DLA, Cameron Station, Alexandria, VA 22301–6100 and Civilian Personnel Offices of DLA PLFAs. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Individual must provide full name, type of award, suggestion description, and activity at which nomination or suggestion was submitted.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Chief, Workforce Effectiveness and Development Division, Office of Civilian Personnel, HQ DLA, Cameron Station, Alexandria, VA 22304–6100 and Civilian Personnel Offices of DLA PLFAs. Official mailing addresses are published as an appendix to the agency's compilation of record system notices.

Individual must provide full name, type of award, suggestion description, and activity at which nomination or suggestion was submitted.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom the record pertains; DLA supervisors and managers who initiate and evaluate nominations and suggestions; and members of DLA Recognition and Awards Board.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90–18550 Filed 8–7–90; 8:45 am]

BILLING CODE 3810-01-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendations 90–2; 90–4; 90–5 and 90–6]

Public Hearings on Recommendations Regarding Health and Safety at the Department of Energy's Rocky Flats Plant, CO and The Secretary's Responses

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of public hearing.

PURPOSE: The Board invites interested persons or groups or present comments, technical information, or data concerning Board Recommendations 90–2, 90–4, 90–5, or 90–6 relating to DOE's Rocky Flats Plant, CO or the Secretary's responses to those Recommendations.

SUMMARY: The Defense Nuclear Facilities Safety Board will hold a hearing to receive public comments on those portions of Recommendation 90–2 pertaining to the Rocky Flats Plant (DOE identification of the specific standards applicable to the design, construction, operation and decommissioning of buildings, as specified, which are part of DOE's defense nuclear facilities at Rocky Flats Plant; DOE's views on the adequacy of these standards for protecting the public health and safety and its determination as to the extent these standards have been implemented); Recommendation 90–4 (operational readiness review at DOE's Rocky Flats Plant); Recommendation 90–5 (systematic evaluation program at Rocky Flats Plant); and Recommendation 90–6 (criticality safety in ducts and related systems at Rocky Flats Plant), and the Secretary of Energy's responses to the Recommendations. The Board's Recommendations, and the Secretary of Energy responses, are published in the **Federal Register** issues of March 14, 1990, (55 FR 9487), May 10, 1990, (55 FR 19644), May 24, 1990, (55 FR 21429) and June 11, 1990, (55 FR 23584) and June 12, 1990, (55 FR 23783), June 25, 1990, (55 FR

25866), June 20, 1990, (55 FR 25154) and July 26, 1990, (55 FR 30499), respectively. The public may review these Recommendations and responses in the Board's Washington office, 600 E Street, NW., Suite 675, Washington, DC 20004 and DOE's Rocky Flats Area Office reading room at the Front Range Community College, 3645 West 112 Avenue, Westminster, CO 80030 and at other DOE depository libraries throughout the country.

This hearing is independently authorized by 42 U.S.C. 2286d (b)(4) and 42 U.S.C. 2286b.

DATES: The public hearing will be held on August 30, 1990, beginning at 5:30 p.m. and ending at 10 p.m. unless concluded earlier.

ADDRESSES: The public hearing will be held at the Ramada Hotel (Denver/Boulder), 8773 Yates Drive, Westminster, CO. Requests to speak at the hearing are to be submitted to Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 600 E Street, NW., Suite 675, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager at 202/376-5083 (FTS 376-5083).

SUPPLEMENTARY INFORMATION: Any individual who has an interest in these Recommendations or the responses referred to in the Summary section of this notice, or who is a representative of a group which has such interest, is invited to comment. Interested persons may request an opportunity to make an oral presentation at the hearing. The Secretary of Energy is being requested to send a representative(s) and provide information regarding the Secretary's responses to the Board's recommendations.

All requests to speak at the hearing shall be submitted in writing, shall describe the nature and scope of the oral presentation, and shall be transmitted in time to assure receipt by the General Manager by 5 p.m. on August 20, 1990. The length of the oral statement shall be limited to 10 minutes.

Anyone who wishes to comment may do so in writing, either in lieu of, or in addition to, making an oral presentation. Any written submittals must be received by the Board no later than August 20, 1990. The Board members may question witnesses to the extent deemed appropriate. The Board will hold the record open until September 13, 1990, for the receipt of additional materials. A transcript of the hearing will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's Front Range Community College, 3645 West 112 Avenue, Westminster, CO 80030.

The Board specifically reserves its right to futher schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, and otherwise exercise its powers under the Atomic Energy Act of 1954, as amended.

Dated: August 3, 1990.

Kenneth M. Pusateri,

General Manager, Defense Nuclear Facilities Safety Board.

[FR Doc. 90-18490 Filed 8-7-90; 8:45 am]

BILLING CODE 6820-KD-M

DEPARTMENT OF ENERGY

Privacy Act of 1974; Proposed Establishment of a New System of Records

AGENCY: Department of Energy (DOE).

ACTION: Notification of intent to create a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, DOE is required to publish a notice in the **Federal Register** of a proposed system of records. DOE proposes to establish a new system of records, DOE-80, Quality Assurance Training and Qualification Records, to maintain training and qualification records of DOE and contractor employees for purposes of satisfying quality assurance requirements imposed by 10 CFR part 50, Appendix B, 10 CFR part 60, subpart G, and the Nuclear Regulatory Commission (NRC) Review Plan for High-Level Waste (HLW) Repository Quality Assurance Program Descriptions. These records will be used to verify personnel qualifications of individuals involved in all activities associated with the construction and operation of a nuclear waste repository and/or a Monitored Retrievable Storage (MRS) facility. These activities can include research and development, site characterization, transportation, waste packaging, handling, design, maintenance, performance confirmation, inspection, and fabrication conducted prior to submitting an application and obtaining a license from the NRC. Also covered under these records will be activities associated with development and production of repository waste forms. The DOE also proposes to establish routine uses for this new system that will provide access to records maintained in the system to the NRC, other Federal agencies, and state and local governments for surveillances and audits conducted by the DOE and the NRC to verify compliance with all aspects of the Department's quality assurance program and to determine its effectiveness. In addition, certain records may be used from this system of records for disclosure to members of an advisory committee for purposes of conducting a review of the DOE epidemiological program.

System reports have been submitted to the Speaker of the House, the President of the Senate, and the Director of the Office of Management and Budget (OMB), in accordance with subsection 552a(r) of the Privacy Act and paragraph 2a(2) of the Transmittal Memorandum No. 1 to OMB Circular A-108.

The OMB requires that a systems report be distributed no later than 60 days prior to the implementation of the announcement of a new system of records.

DATES: The new system of records and its routine use will become effective without further notice, 30 days after publication (September 7, 1990), unless comments are received on or before that date which would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Written comments should be directed to the following address: John H. Carter, Chief, Freedom of Information and Privacy Acts, U.S. Department of Energy, AD-234.1, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, John H. Carter, Chief, Freedom of Information and Privacy Acts, AD-234.1, 1000 Independence Avenue, SW., Washington, DC (202) 586-5955

Department of Energy, Abel Lopez, Office of General Counsel, GC-43, 1000 Independence Avenue, SW., Washington, DC (202) 586-8618

Department of Energy, Dwight Shelor, Office of Quality Assurance, RW-3, 1000 Independence Avenue, SW., Washington, DC (202) 586-8853

SUPPLEMENTARY INFORMATION: The DOE proposes to establish a new system of records, DOE-80, "Quality Assurance Training and Qualification Records." Records maintained in the system will be used to verify that individuals involved in all activities in the construction and operation of a nuclear waste repository and/or a MRS facility, which can include research and development, site characterization, transportation, waste packaging, design, handling, maintenance, performance confirmation, inspection, fabrication, and activities associated with development and production of repository waste forms, have the

appropriate experience and education to perform the work that they have been assigned. The records will also be used to verify that individuals have received appropriate training on quality assurance requirements and procedures.

The DOE also proposes to make records maintained in this system of records available to state and local governments, the NRC, and other Federal agencies for purposes of audits conducted to satisfy the requirements of the Nuclear Waste Policy Act of 1982, title 10, Code of Federal Regulations, part 50, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants", Appendix B; and the NRC Review Plan for High-Level Waste Repository Quality Assurance Program Descriptions.

The text of the system notice is set forth below. Issued in Washington, D.C. on August 2, 1990.

Jim E. Tarro,

Director of Administration and Human Resource Management.

DOE-80

SYSTEM NAME:

Quality Assurance Training and Qualification Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Those offices listed in Appendix A, as well as the West Valley Demonstration Project, U.S. Department of Energy, PO Box 919, West Valley, New York 14171.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOE and contractor personnel involved in all activities leading up to and including the construction and operation of a nuclear waste repository and/or a Monitored Retrievable Storage (MRS) facility which are subject to quality assurance audits by the Nuclear Regulatory Commission in relationship to its quality assurance program. Also covered under these records will be activities associated with development and production of repository waste forms.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, resume, assigned number, grade level, occupational series, training requests and authorizations, training evaluations, training examination, training attendance records, indoctrination and training matrix, reading assignment sheet, qualifications statement, verification records of employment and education, statement of performance, position description, or equivalent documents that encompass the above information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Deparmtent of Energy Organization Act, Executive Order 12009, Nuclear Waste Policy Act of 1982 (Pub. L. 97-425), and the Nuclear Waste Policy Amendments Act of 1987 (Pub. L. 100-203).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used by state and local governments, the NRC, and other Federal agencies that conduct audits to determine whether DOE and contractor personnel satisfy quality assurance requirements for activities necessary to obtain a license from the NRC for the construction and operation of a nuclear waste repository and/or a Monitored Retrievable Storage (MRS) facility. These activities will also include research and development, site characterization, transportation, waste packaging, handling, design, maintenance, performance confirmation, inspection, fabrication, and development and production of repository waste forms.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences or another independent organization, and deemed appropriate for such access. A researcher granted access to this record shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the DOE epidemiological program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional routine uses are 1, 4, 7, 8, and 9 listed under Appendix B, 47 FR 14284, dated April 2, 1982.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computer disks, and microform.

RETRIEVABILITY:

Name and/or assigned number.

SAFEGUARDS:

Records are maintained in locked cabinets. Access to computer records is by password only.

RETENTION AND DISPOSAL:

Records will be maintained and disposed in accordance with DOE Order 1324.2A, "Records Disposition" and in accordance with DOE Records Inventory Disposition Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Quality Assurance, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 and Director, Project Operations and Control Division, Yucca Mountain Project Office, Nevada Operations Office, Phase 2, Suite 200, 101 Convention Center Drive, Las Vegas, Nevada 89109.

NOTIFICATION PROCEDURE:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts, Department of Energy, Washignton, DC or the Privacy Act Officer at the appropriate field office identified in Appendix A; in accordance with DOE's Privacy Act regulations (10 CFR part 1008, 45 FR 61576, September 16, 1980).

b. Required identifying information: Requestor's complete name, and, if appropriate, the geographic location(s) and organization(s) where requestor believes such record may be located, date of birth, and time period related to activity.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individuals, supervisors, former employers, colleges and universities, references provided by subject individuals, and portions of data from copies of personnel action

documents and training attendance and examination files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90-18560 Filed 8-7-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TM90-12-21-000]

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

August 2, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1990:

Third Revised Sheet Nos. 30B1 through 30B5
Third Revised Sheet Nos. 30C1 through 30C5
Third Revised Sheet Nos. 30D1 through 30D5
Third Revised Sheet Nos. 30E1 through 30E5
Third Revised Sheet Nos. 30F1 through 30F5
Third Revised Sheet Nos. 30G1 through 30G5

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket Nos. RP88-187, *et al.*, in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to supplement and modify its earlier filings in Docket Nos. RP88-187, *et al.*, to permit it to flow through revised take-or-pay and contract reformation costs from:

(1) Texas Eastern Transmission Corporation (Texas Eastern) pursuant to a filing made on June 1, 1990, which was accepted by Commission order issued on June 18, 1990 in Docket No. TM90-9-17. Also, Columbia proposes to remove from its tariff certain take or pay costs attributable to Texas Eastern's filings at Docket Nos. TM89-8-17, TM89-12-17 and TM90-5-17, as these costs have now been fully recovered;

(2) Tennessee Gas Pipeline Company (Tennessee) pursuant to a filing made on May 31, 1990, which was accepted by Commission order dated June 29, 1990 in Docket Nos. RP88-191 (re-docketed by the Commission as RP90-122); and

(3) Transcontinental Gas Pipe Line Company (Transco) pursuant to a filing made on March 30, 1990, which was accepted by Commission order issued on April 27, 1990 in Docket No. RP90-98. Also, Columbia proposes to remove from its tariff certain take or pay costs attributable to Transco's filing at Docket No. RP89-163, as these costs have now been fully recovered.

Copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187, RP89-181, RP89-214, RP89-229, TM89-3-21, TM89-4-21, TM89-5-21, TM89-7-21, RP90-26, TM90-2-21, TM90-5-21, TM90-6-21, TM90-7-21, TM90-8-21, and TM90-10-21.

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, 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 motions or protests should be filed on or before August 10, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18520 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-86-000]

MIGC, Inc.; Informal Settlement Conference

August 2, 1990.

Take notice that an informal settlement conference will be convened in the above-docketed proceeding on September 5, 1990, at 10:00 a.m. in Room 3400-D at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

The Presiding Administrative Law Judge issued an order confirming procedural schedule on July 11, 1990 that provided for an informal settlement conference to convene on August 22, 1990. However, the order also provided that the parties could reschedule this conference if they wished to do so. The attending parties have subsequently agreed to reschedule the settlement conference to September 5, 1990.

Any party, as defined by 18 CFR 385.102(c) (1989), or any participant as defined by 18 CFR 385.102(b) (1989), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214 (1989)).

If there are any questions, call Staff Counsel Robert L. Woods at (202) 708-0583 or Anja M. Clark at (202) 208-2034.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18527 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-26-000]

Natural Gas Pipeline Co. of America; Changes in Rates

August 2, 1990.

Take notice that on July 31, 1990, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective September 1, 1990:

Ninetieth Revised Sheet No. 5
Fifty-Fifth Revised Sheet No. 5A
Thirty-Third Revised Sheet No. 5B
Thirty-Eighth Revised Sheet No. 5C
Eighth Revised Sheet No. 5C.1
Eighth Revised Sheet No. 5C.2

Natural states the purpose of the instant filing is to implement Natural's quarterly PGA unit rate adjustment calculated pursuant to section 18 of the General Terms and Conditions of Natural's Tariff. The tariff sheets contain both peak and off-peak rates.

The overall effect of the quarterly adjustment when compared to the gas cost component in Natural's PGA filing in Docket No. TA90-2-26, effective June 1, 1990, is an increase in the DMQ-1 demand and commodity charges of $.03 and $.2634, respectively, and a decrease in the DMQ-1 entitlement charge of $.0029. Appropriate adjustments have been made with respect to Natural's other rate schedules. No changes are required to the surcharge adjustments that were approved in Docket No. TA90-1-26, effective March 1, 1990.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

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 must be filed on or before August 9, 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. 90-18521 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-156-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

August 2, 1990.

Take notice that on July 31, 1990, Natural Gas Pipeline Company of America (Natural) filed the tariff sheets listed on Appendix A hereto as part of its FERC Gas Tariff. Natural seeks waiver of the Federal Energy Regulatory Commission's (Commission) Regulations, including the 30-day notice requirement, to permit the proposed tariff sheets to become effective on August 27, 1990, to coincide with nominations for September transportation business.

Natural states that its FERC Gas Tariff is being modified to include (i) a formal procedure for reserving capacity for Natural's firm sales function and for allocating capacity to firm converting customers; (ii) a provision allowing delegation to a representative of administrative functions under transportation agreements and (iii) a relaxation of nomination deadlines.

Natural states further that the tariff revisions are made to comply with commitments undertaken in the Stipulation and Agreement on Gas Inventory Demand Charge (Settlement), filed June 4, 1990 in Docket No. CP89-1281 and in its related Reply Comments. In this regard, Natural reserves the right to withdraw the proposed tariff sheets if the Settlement is not timely approved by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 9, 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. 90-18528 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

August 2, 1990.

Take notice that North Penn Gas Company (North Penn) on August 1, 1990 tendered for filing Ninety-Ninth Revised Sheet No. PGA-1 to its FERC Gas Tariff First Revised Volume No. 1.

The revised tariff sheet is being filed pursuant to section 14 (PGA Clause) of the General Terms and Conditions of North Penn's FERC Gas Tariff to reflect changes in the cost of gas for the period September 1, 1990 through November 30, 1990 and is proposed to be effective September 1, 1990. The proposed change reflects an increase in the average cost of gas for the G-1 Rate Schedule of $1.03 per Mcf.

While North Penn believes that no other waivers are necessary in order to permit this filing to become effective September 1, 1990, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective September 1, 1990, as proposed.

North Penn states that copies or this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and State Commissions shown on the service list attached to the filing.

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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 10, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18522 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-85-006]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

August 2, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 31, 1990 tendered for filing the tariff sheets listed on appendix A to its FERC Gas Tariff, Original Volume No. 1-A attached to the filing.

Panhandle proposes that the tariff sheets listed on appendix A become effective September 1, 1990.

Panhandle states that on February 8, 1990 the Commission approved a Stipulation and Agreement (Agreement) in the proceedings entitled *Village of Pawnee, Illinois, et al.* vs. *Panhandle Eastern Pipe Line Company*, in the subject docket. Under the terms of the Agreement, certain Small Customers as defined in article II of the Agreement, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes in each succeeding twelve-month period that the Agreement is in effect. Article V of the Agreement requires the Small Customers to report to Panhandle changes in their estimated monthly and annual volumes, which changes are to be reflected as adjustments to the monthly base period volumes for each Small Customer. The tariff sheets listed on appendix A reflect these adjustments in the monthly base period for each Small Customer.

Panhandle states that copies of this filing have been forwarded to all customers subject to the tariff sheets and the respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before August 10, 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 that 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. 90-18523 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-089]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 2, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 31, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Fifth Revised Sheet No. 803
Fifth Revised Sheet No. 812

Texas Eastern states that the purpose of this filing is to update the Index of Purchasers for Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1 to reflect the execution of Service Agreements for CNG Transmission Corporation under Rate Schedules CD-1, FT-1 (firm), and FT-1 (standby) and Service Agreements for Public Service Electric and Gas Company under Rate Schedules CD-1, CD-2, FT-1 (firm), and FT-1 (standby) as reflected in a companion filing dated July 31, 1990.

The proposed effective date of the tariff sheets listed above is July 31, 1990.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before August 10, 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 that 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. 90-18524 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-86-005]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

August 2, 1990.

Take notice that Trunkline Gas Company (Trunkline) on July 31, 1990 tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1:

Fiftheenth Revised Sheet No. 21-C.8
Original Sheert No. 21-C.9
Original Sheert No. 21-C.10
Original Sheert No. 21-C.11

Trunkline proposes that these sheets become effective September 1, 1990.

Trunkline states that on February 8, 1980 the Commission approved a Stipulation and Agreement (Agreement) in the proceedings entitled *Kaskaskia Gas Company, et al.* vs. *Trunkline Gas Company,* in the subject docket. Under the terms of the Agreement, certain Small Customers as defined in article II of the Agreement, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes in each succeeding twelve-month period that the Agreement is in effect. Article V of the Agreement requires the Small Customers to report to Trunkline changes in their estimated monthly and annual volumes, which changes are to be reflected as adjustments to the monthly base period volumes for each Small Customer. Fifteenth Revised Sheet No. 21-C.8 and Original Sheet No. 21-C.9 reflect these adjustments in the monthly base period for each Small Customer.

Trunkline states that copies of this filing have been forwarded to all customers subject to the tariff sheets and the respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before August 10, 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 that 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. 90-18525 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-56-000]

Valero Interstate Transmission Co., Proposed Changes in FERC Gas Tariff

August 2, 1990.

Take notice that Valero Interstate Transmission Company ("Vitco"), on July 31, 1990 tendered for filing the following tariff sheets as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

19th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

24th Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A. The change in rates to Rate Schedule S-3 includes a decrease in purchased gas cost of $.0228 per MMBtu.

The proposed effective date of the above filing is September 1, 1990. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by September 1, 1990.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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 August 9, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18526 Filed 8-7-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[Docket No. FE C&E 90-14; Certification Notice-62]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311 (a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes complaince with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
WGP, Inc., Radnor, Pa	7-16-90	Combined Cycle	15	Lewiston, ME.
L'Energia, Inc., Bedford, NH [1]	7-18-90	Combined Cycle	70-86	Lowell, MA.

[1] The parent company (BIO Development Corp.) was erroneously listed in a previous certification notice. (Docket No. FE C&E 89-21; Certification Notice-47) (54 FR 40727, 10/3/89). It should have been as stated above.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC on August 2, 1990.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 90-18559 Filed 8-7-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3819-1]

Final Exemption Granted to Bethlehem Steel Corp., Burns Harbor Plant, Chesterton, IN, for the Continued Injection of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of final exemption approval.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (USEPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Bethlehem Steel Corporation, for its three Class I injection wells located at the Burns Harbor Plant in Chesterton, Indiana. As required by 40 CFR part 148, Bethlehem Steel has demonstrated, with a reasonable degree of certainty, that there will be no migration of hazardous constituents from its permitted injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by Bethlehem Steel of two specific restricted hazardous wastes. Spent Pickle Liquor (code K062 under 40 CFR part 261) may be disposed of into a Class I hazardous waste injection well specifically identified as Waste Pickle Liquor Well Number 1, and Waste Ammonia Liquor, which contains selenium (code D010 under 40 CFR part 261), may be disposed of into two Class I hazardous waste injection wells specifically identified as Waste Ammonia Liquor Well Number 1 and Number 2. This decision constitutes a final USEPA action for which there is no Administrative Appeal.

Background

Bethlehem Steel submitted a petition for exemption from the land disposal restrictions of hazardous waste on August 8, 1988. USEPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, regional and local geology, seismic activity, penetrations of the confining zone, and the mathematical models. The USEPA has determined that the geological setting at the site as well as the construction and operation of the wells are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR part 148. The injection zone at this site is the Mt. Simon Sandstone and the lower Eau Claire Formation, and the immediate confining zone is the upper Eau Claire Formation, at a depth of 1,936 feet to 2,180 feet below ground level. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 750 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks, which provide additional protection from fluid migration into drinking water sources. A fact sheet containing a more complete summary of the proposed decision was published in the **Federal Register** on March 8, 1990. Typographical errors have been identified in this **Federal Register** fact sheet and are listed in the Administrative Record for this exemption.

A public notice was issued on March 2, 1990, pursuant to 40 CFR 124.10, and a public hearing was subsequently held in Valparaiso, Indiana, on April 4, 1990. The public comment period expired on April 16, 1990. A number of comments were received and all comments have been considered in making the final decision. A responsiveness summary has been mailed to all commentors and to all who signed in at the public

hearing. This summary is included as part of the Administrative Record relating to this decision.

Conditions

General conditions of this exemption may be found in 40 CFR 148.23 and 148.24. In addition, Bethlehem Steel must meet the following specific conditions:

1. Bethlehem Steel may inject up to 240 gallons per minute of Waste Ammonia Liquor (WAL), based on an annual average injection rate into both WAL wells combined;
2. Bethlehem Steel may inject Waste Pickle Liquor and Waste Ammonia Liquor only into the lower Mt. Simon Sandstone below the "B" Cap shales;
3. Bethlehem Steel must fully implement the Groundwater Monitoring Plan and implementation schedule, both of which are found in the Administrative Record for this exemption;
4. Bethlehem Steel may inject no more than 5 mg/l selenium, measured as an annual average, with the WAL; and
5. Bethlehem Steel must be in full compliance with its Underground Injection Control permits.

DATES: This action is effective as of August 1, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. Leah Haworth, Lead Petition Reviewer, USEPA, Region V, telephone (312) 886-6556. Copies of the petition and all pertinent information relating thereto are on file at the Regional Office and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

Jerri-Anne Garl,

Acting Director, Water Division.

[FR Doc. 90-18557 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3819-2]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions Petition for Exemption—Class I Hazardous Waste Injection LTV Steel Co., Hennepin Works, Hennepin, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (USEPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to LTV Steel Co. (LTV) of Cleveland, Ohio, for its Class I injection well located in Hennepin, Illinois. As required by 40 CFR part 148, LTV has demonstrated, with a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by LTV of a specific restricted waste, waste pickle liquor, (code K062 under 40 CFR part 261), into one Class I hazardous waste injection well specifically identified as Waste Pickle Liquor Well No. 1, at the Hennepin facility. This decision constitutes a final USEPA action for which there is no Administrative Appeal.

Background

LTV submitted a petition for exemption from the land disposal restrictions of hazardous waste on September 29, 1988. USEPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, regional and local geology, seismic activity, penetrations of the confining zone, and the mathematical models. The USEPA has determined that the geological setting at the site as well as the construction and operation of the well are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR part 148. The injection zone at this site is the Mt. Simon Formation and the Lombard and Elmhurst Members of the Eau Claire Formation, and the immediate confining zone is the Proviso Member of the Eau Claire Foundation, at a depth of 2705 feet to 2902 feet below ground level. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 2535 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks, which provide additional protection from fluid migration into drinking water sources. A fact sheet containing a more complete summary of the proposed decision was published in the **Federal Register** on May 7, 1990.

A public notice was issued on May 1, 1990, pursuant to 40 CFR 124.10, and a public hearing was subsequently held in Hennepin on May 31, 1990. The public comment period expired on June 15, 1990. All comments that were received have been considered in making the final decision. A responsiveness summary has been mailed to all commentors and included as part of the Administrative Record relating to this decision.

Condition

As a condition of this exemption, LTV must meet the following conditions:

(1) The monthly average injection rate must not exceed 153 gallons per minute, consistent with well design capacity;

(2) The petitioner shall comply with the groundwater monitoring plan found in the Administrative Record for this decision. A detailed drilling, testing, and operational plan for the monitoring well(s) shall be submitted to the Director within 60 days of this final decision pursuant to 40 CFR part 148; and

(3) LTV must be in full compliance with all conditions of its permit. Other conditions relating to the exemption may be found in 40 CFR parts 148.23 and 148.24.

DATE: This action is effective as of July 24, 1990.

FOR FURTHER INFORMATION CONTACT: Allen Melcer, Lead Petition Reviewer, USEPA, Region V, telephone (312) 886-1498. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

Dale S. Bryson,

Director, Water Division.

[FR Doc. 90-18558 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3818-8]

Open Meeting of the International Environmental Technology Transfer Advisory Board

Under Public Law 92-463, notice is hereby given that a metting of the International Environmental Technology Transfer Advisory Board (IETTAB) will be held on September 6, 1990 in the Main Lounge of the National Press Club, 14th and F Streets, NW., Washington, DC. The meeting is open to the public and will run from 9 a.m. until approximately 12 p.m.

The purpose of this meeting is to review and discuss lessons learned by Federal agencies in technology transfer and the unique nature of transferring environmental technologies to Eastern Europe.

Public comments can be made through written statements which will be distributed to Board members. Written statements must be sent in care of the Executive Secretary listed below no later than August 28, 1990, in order to distribute to Board members before the

meeting time. Seating for interested members of the public is limited to seventy seats. Seats will be filled on a first-come basis. To confirm your interest in attending, contact the Executive Secretary by August 31, 1990.

FOR MORE INFORMATION CONTACT: Mark Kasman, Executive Secretary, Office of International Activities (A-106), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-7424.

Dated: July 31, 1990.

Timothy B. Atkeson,

Assistant Administrator for International Activities.

[FR Doc. 90-18555 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66141A; FRL-3775-8]

Pesticide Products Containing Phenylmercury and Other Mercury Compounds; Receipt of Requests for Voluntary Cancellation and Amendments To Delete Uses; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects an error in a notice published in the Federal Register of June 29, 1990, concerning the use of mercury products in interior paints and coatings. In FR Doc. 90-15069, on page 26755, column 1, second line, the EPA Registration No. for product Troysan PMA-100 was inadvertently listed as 5383-4, the correct EPA Registration No. is 5383-8. This correction does not change the effective date given in the June 29 notice.

FOR FURTHER INFORMATION CONTACT: Beth Edwards, Special Review Branch, Special Review and Reregistration Division (H7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd Floor, 2805 Jefferson Davis Highway, Arlington, VA (703) 308-8010.

Dated: July 30, 1990.

Edwin F. Tinsworth,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 90-18456 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30307; FRL 3793-7]

Phosmet: Deletion of Uses and Directions for Use on Citrus, Grapes, Alfalfa, Corn, Cotton, Peas, and Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete certain uses and directions for use.

SUMMARY: This Notice announces that ICI Americas, the sole registrant of the technical active ingredient Phosmet, has requested to amend its registrations of Imidan® Technical (EPA reg. no. 10182-234) Imidan® 50-WP (EPA reg. no. 10182-173) and Imidan® 70-WP (EPA reg. no. 10182-224) by deleting all uses and directions for use on citrus, grapes, alfalfa, corn, cotton, peas, and potatoes. Notice is given of the intent of the Environmental Protection Agency to approve the proposed amendments. EPA is at this time soliciting comments on the proposed amendments.

DATE: Written comments must be submitted on or before September 7, 1990.

ADDRESSES: Send three copies of your written comments identified by the docket control number OPP-30307, to: Public Docket and Freedom of Information Branch, Field Operations Division (H7504C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM # 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: By mail: Brigid Lowery, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Reregistration Branch, Crystal Station 1, WF33G6, 2805 Jefferson Davis Highway, Alexandria, Virginia, (703) 308-8053.

SUPPLEMENTARY INFORMATION: Phosmet is the commonly accepted name for *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethylphosphorodithioate). It is a broad spectrum organophosphate insecticide/acaricide which was initially registered as a pesticide under FIFRA in 1966 by Stauffer Chemical Company. Phosmet is available as a 90 percent and 94 percent active ingredient technical product for formulating phosmet end-use products. Technical phosmet is produced by ICI Americas under the trade name Imidan® Technical (90 percent) and Prolate® Technical (94 percent). Phosmet is primarily used in the formulation of insecticides/miticides products for use on crop and non-crop areas. ICI Americas, the sole registrant of the technical grade of the active ingredient phosmet, has requested to amend its registration of Imidan® Technical, Imidan® 50-WP Agricultural Insecticide, and Imidan® 70-WP Agricultural Insecticide by deleting all uses and directions for use on citrus, grapes, alfalfa, corn, cotton, peas, and potatoes. EPA intends to approve the request. Since ICI is the sole registrant of the technical grade phosmet there will no longer be a manufacturing use product available from which to formulate any registered use products for phosmet on citrus, grapes, alfalfa, corn, cotton, peas, and potatoes. End-use registrants are being notified by certified mail that their generic data exemption will be revoked and they will be given the opportunity to generate data in support of these uses. EPA is now soliciting comments on the proposed amendments. Interested persons are invited to submit their written comments to the address given above.

Dated: July 26, 1990.

Jay S.Ellenberger,

Acting Director Special Review and Reregistration Division.

[FR Doc. 90-18551 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30287A; FRL-3774-5]

Whitmire Research Lab. Inc.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Whitmire Research Laboratories, Inc., to register the pesticide product Whitmire Avert PT 310 Abamectin Dust containing an active ingredient involving a changed use pattern pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 15, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of March 30, 1988 (53 FR 10284), which announced that Whitmire

Laboratories, Inc., 3568 Tree Court Blvd., St. Louis, MO 63122, had submitted an application to register the pesticide product Whitmire Avert PT 310 Abamectin Dust, containing the active ingredient abamectin B_1 (a mixture of avermectins containing 80% avermectin B_{1a} (5-0-demethyl avermectin A_{1a} and 20% avermectin B_{1b} (5-0-demethyl-25-de[1-methylpropyl-25-(1-methylethyl) avermectin A_{1a})] at 0.05 percent; an active ingredient involving a changed use pattern of the product.

The application was approved on June 11, 1990, for commercial use, to include in its presently registered use, a new indoor use to kill insects in garages, homes, hospitals, motels, nursing homes, transportation equipment, utilities, warehouses, and other commercial and industrial buildings. The product was assigned EPA Registration Number 499-294.

More detailed information on this registration is contained in a Chemical Fact Sheet on abamectin B_1.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the Natural Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Docket, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM #2, Arlington, VA 22202 (703-557-4456). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: July 20, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-18071 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3818-7]

Appleton Lane Drum Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response cost at Appleton Lane Drum Site, Louisville, Kentucky. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from:

Ms. Carolyn McCall, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404-347-5059.

Written comments may be submitted to the person above by 30 days from the date of publication.

Dated: July 13, 1990.

Don Guinyard,

Acting Director, Waste Management Division.

[FR Doc. 90-18554 Filed 8-7-90; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 12]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1908, Eximbank has submitted an application to be used under the Bank's medium and long term loan and guarantee programs.

PURPOSE: The proposed application is to be used by applicants when applying for Eximbank's services under its medium and long term loan and guarantee programs. The application will serve as a mechanism by which Eximbank can evaluate creditworthiness of applicants, to find reasonable assurance of repayment, and to assure that relevant statutory programs and requirements are met.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) Type of request: reapproval.

(2) Number of forms submitted: one.

(3) Form Number: EIB 87-14 (Rev.).

(4) Title of information collection: Medium- and Long-Term Export Loan and Guarantee Application.

(5) Frequency of use: Submission of applications.

(6) Respondents: Any U.S. or foreign bank, other financial institution, other responsible party including the exporter or creditworthy borrowers in a country eligible for Eximbank assistance.

(7) Estimated total number of annual responses: 500

(8) Estimated total number of hours needed to fill out the form: 250. Section 3504(h) of Public Law 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Helene H. Wall, Agency Clearance Officer, (202) 566-8111. Comments and questions should be directed to Marshall Mills, Office of Management and Budget, Information and Regulatory Affairs, Room, 3235, New Executive Office Building, Washington, DC 20503, (202) 395-7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise Marshall Mills by telephone that comments will be submitted late.

Dated: July 27, 1990.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 90-18491 Filed 8-7-90; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 203-011284]

Equipment Interchange Discussion Agreement

Reference is made to the Federal Register Notice of June 15, 1990, (55 FR 24314).

The above named Agreement has been redesignated as Agreement No. 202-011284.

By Order of the Federal Maritime Commission.

Dated: August 2, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-18479 Filed 8-7-90; 8:45 am]

BILLING CODE 6730-01-M

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.: 224-010736-004.

Title: City of Long Beach/Long Beach Container Terminal, Inc. Terminal Agreement.

Parties:

City of Long Beach (City)
Long Beach Container Terminal, Inc. (LBCT).

Synopsis: The Agreement amends and restates the parties' basic agreement to revise the description of the assigned premises, adjust compensation provisions and eliminate obsolete provisions.

Agreement No.: 224-010796-001.

Title: Port of Palm Beach District/Port of Palm Beach Foreign Trade Zone, Inc. Terminal Agreement.

Parties:

Port of Palm Beach District (Port)
Port of Palm Beach Foreign Trade Zone, Inc.

Synopsis: The Agreement amends the basic agreement to provide that the foreign trade zone property may be located outside the taxing district of the Port provided that it is located within the coporate limits of Palm Beach County and that the trade zone, if operating, also maintains trade zone operations within the boundaries of the Port District.

Agreement No.: 224-200233-006.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and Holt Cargo Systems, Inc. to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the agreement as contemplated by paragraph 11.2 of the basic agreement.

Agreement No.: 224-200316-001.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and Portside Refrigerated Services, Inc. to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the agreement as contemplated by paragraph 10 of the basic agreement.

Agreement No.: 224-200011-001.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and Seagate Corporation to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the basic agreement.

Agreement No.: 224-200350-001.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and J.H. Stevedoring Company to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the agreement as contemplated by paragraph 9.2 of the basic agreement.

Agreement No.: 224-200051-003.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and Tioga Fruit Terminals, Inc. to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the agreement as contemplated by paragraph 17 of the basic agreement.

Agreement No.: 224-200313-002.

Title: Philadelphia Port Corporation/ Philadelphia Regional Port Authority Terminal Agreement.

Parties:

Philadelphia Port Corporation (PPC)
Philadelphia Regional Port Authority (PRPA).

Synopsis: The Agreement amends the basic agreement between PPC and American Transport Lines, Inc. to reflect that PPC transfers, assigns and sets over to PRPA certain of PPC's right, title and interest in the agreement as contemplated by paragraph 12.3 of the basic agreement.

Dated: August 2, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-18504 Filed 8-7-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket Nos. 7100-0128 and 7100-0244]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Agency Forms Under Review.

BACKGROUND: Notice is hereby given of final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

SUMMARY: Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. On March 30, 1990, the Board gave initial approval to revisions in the bank holding company reporting requirements. The proposal was then issued for public comment. The notice of the new proposed reporting requirements was published in the **Federal Register** on April 6, 1990, 55 FR 12894. The initial comment period ended on May 7, 1990. Following several requests to extend the comment period, the period was extended to May 31, 1990, 55 FR 19325.

The Board has approved revisions to the bank holding company reporting requirements for a period of three years to collect new supervisory information, including data on risk-based capital. In response to the public comments, the Board, in adopting the final reporting requirements, has deferred the

implementation date of the revised reporting requirements contained in the FR Y-9C, FR Y-9LP, and the FR Y-11Q to September 30, 1990 from the proposed date of June 30, 1990. The revisions to the FR Y-9SP and the FR Y-11AS will be implemented as of December 31, 1990. In addition, the Board has eliminated reporting for certain items relating to risk-based capital, highly leveraged transactions, and real estate lending. The combination of these items will lessen the additional burden. Finally, the Board has incorporated certain clarifications in the instructions to address issues raised in the public comments.

The revision to the bank holding company reporting requirements are designed to obtain data crucial for supervisory purposes. The information will enable the Board to assess the capital adequacy of bank holding companies in accordance with the Risk-Based Capital Guidelines (Appendix A, 12 CFR part 225). The data will provide information on exposure to highly leveraged transactions and the information will provide additional data on exposure to real estate lending. The reports are required by law and authorized by section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) and by § 225.5(b) of Regulation Y (12 CFR 225.5(b)).

Proposal Approved under OMB Delegated Authority—the Approval of the Collection of the Following Report:

1. *FR Y-9C* (OMB No. 7100-0128), Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;

This report is to be filed by all bank holding companies that have total consolidated assets of $150 million or more *and* by all multibank holding companies regardless of size. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company *and* have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K. The revised report is to be implemented on a quarterly basis as of September 30, 1990, with a submission date of 45 days after the "as of" date. This report includes the supplement to the FR Y-9C.

Report Title: Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank.
Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Small businesses are affected.

The information collection is mandatory (12 U.S.C. 1844) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the remaining information on the form. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

2. *FR Y-9LP* (OMB No. 7100-0128), Parent Company Only Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;

This report is to be filed on a parent company only basis by all bank holding companies that have total consolidated asets of $150 million or more, or have more than one subsidiary bank. Bank holding companies of any size that are controlled by another bank holding company that has total consolidated assets of $150 million or more, or have more than one subsidiary bank must file the FR Y-9LP. The following bank holding companies are exempt from filing the FR Y-9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act and foreign banking organizations as defined by § 211.23(b) of Regulation K. This report is to be submitted with the consolidated financial statements required above. The revised report is to be implemented on a quarterly basis as of September 30, 1990, with a submission date of 45 days after the "as of" date.

Report Title: Parent Company Only Financial Statments for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank.
Agency Form Number: FR Y-9LP
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Small businesses are affected.

The information collection is mandatory [12 U.S.C. 1844]. Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

3. *FR Y-9SP* (OMB No. 7100-0128), Parent Company Only Financial Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million:

This report is to be filed by all one-bank holding companies with total consolidated assets of less than $150 million. The revised report is to be implemented on a semi-annual basis as of December 31, 1990, with a submission date of 45 days after the "as of" date. The following bank holding companies are exempt from filing the FR Y-9SP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Act and foreign organizations as defined by section 211.23(b) of Regulation K.

Report Title: Parent Company Only Financial Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million:
Agency Form Number: FR Y-9SP
OMB Docket Number: 7100-0128
Frequency: Semiannual
Reporters: Bank Holding Companies
Small businesses are affected.

The information collection is mandatory [12 U.S.C. 1844]. Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

4. *FR Y-11Q* (OMB No. 7100-0244), Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies;

This report is to be filed on a quarterly basis by (1) all bank holding companies with total consolidated assets of $1 billion or more; and (1) bank holding companies with total consolidated assets of between $150 million and $1 billion that meet one or more of the following conditions: (i) the total assets of the bank holding company's nonbank subsidiaries equal or exceed 5 percent of the total consolidated assets of the bank holding company, (ii) net income of the bank holding company's nonbank subsidiaries equals or exceeds 5 percent of the bank holding company's total consolidated net income, or (iii) the bank holding company's investments in and/or loans and advances to its nonbank subsidiaries equal or exceed 5 percent of the bank holding company's total stockholder's equity. The revised report is to be implemented as of September 30, 1990, with a submission date of 60 days after the "as of" date.

Report Title: Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies.
Agency Form Number: FR Y-11Q
OMB Docket Number: 7100-0244
Frequency: Quarterly
Reporters: Bank Holding Companies
Small businesses are affected.

The information collection is mandatory [12 U.S.C. 1844]. Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

5. *FR Y-11AS* (OMB No. 7100-0244), Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies, by Type of Nonbank Subsidiary.

This report is to be submitted as of each December 31 by the same bank holding companies submitting the quarterly FR Y-11Q report (No. 4 above). The revised report is to be implemented as of December 31, 1990, with a submission date of 60 days after the "as of" date.

Report Title: Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies, by Type of Nonbank Subsidiary.
Agency Form Number: FR Y-11AS

OMB Docket Number: 7100-0244
Frequency: Annual
Reporters: Bank Holding Companies
Small businesses are affected.

The information collection is mandatory [12 U.S.C. 1844]. Confidential treatment is not routinely given to the information on the form. However, confidential treatment for the information can be requested in accordance with the instructions to the form.

FOR FURTHER INFORMATION CONTACT: Stephen M. Lovette, Manager, Policy Implementation, Division of Banking Supervision and Regulation (202/452-3622) or Arleen Lustig, Senior Financial Analyst, Division of Banking Supervision and Regulation (202/452-2987). The following individuals may be contacted with respect to issues related to the Paperwork Reduction Act of 1980: Stephen Siciliano, Special Assistant to the General Counsel for Administrative Law, Legal Division, (202/452-3920); Frederick J. Schroeder, Chief, Financial Reports, Division of Research and Statistics (202-452-3829); and Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: The Board has approved, under delegated authority from the Office of Management and Budget, the collection of the following reports, as revised. The reports are:

1. *FR Y-9C* (OMB No. 7100-0128), Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;
2. *FR Y-9LP* (OMB No. 7100-0128), Parent Company Only Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 million or More, or With More Than One Subsidiary Bank;
3. *FR Y-9SP* (OMB No. 7100-0128), Parent Company Only Financial Statements for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million;
4. *FR Y-11Q* (OMB No. 7100-0244), Conbined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies;
5. *FR Y-11AS* (OMB No. 7100-0244), Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies, by Type of Nonbank Subsidiary.

The FR Y-9C consolidated financial statements are filed by the large bank holding compaines and those with more than one subsidiary bank. The report includes a balance sheet, income statement, and statement of changes in equity capital with suporting schedules providing information on types of securities, loans, deposits, interest sensitivity, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries. The parent company statement, FR Y-9LP, is filed by the large companies that also file the FR Y-9C. The report contains a balance sheet and income statement with a supporting schedule on investments in subsidiaries and other selected items. The FR Y-9SP is also a parent company statement, but contains less information than the statements contained in the FR Y-9LP. It is filed by small holding companies. The nonbank subsidiary financial statements, FR Y-11Q and FR Y-11AS, contain only abbreviated balance sheets and selected income items and are filed by the larger bank holding companies.

On March 30, 1990, the Board gave initial approval to revisions in the bank holding company reporting requirements. The proposal was then issued for public comment. The notice of the new proposed reporting requirements was published in the **Federal Register** on April 6, 1990. The initial comment period ended on May 7, 1990. Following several requests to extend the comment period, the period was extended to May 31, 1990. The reporting requirements approved by the Board are listed above under *Proposal Approved under OMB Delegated Authority—the Approval of the Collection of the Following Report.*

The table presents summary information on the proposed changes issued for public comment and the number of companies filing each of the five reports. The information is used by Board and Reserve Bank staff for the following purposes:

—Early warning system for detecting emerging problems;
—Analyzing the financial condition and performance of specific companies and their affiliates, the industry as a whole, peer group analysis, and by georgraphic location;
—Assessing capital adequacy;
—Providing data to the Board in conjunction with the analysis of financial trends and conditions;
—Analyzing applications for mergers and acquisitions;
—Providing information to the Congress in response to special requests and in connection with Board testimony;
—Pre-inspection information and data to be used in preparation of BHC inspection reports; and
—Providing data to other federal and state banking supervisory authorities and to public.

BANK HOLDING COMPANY REPORTING STRUCTURE

Report No.	Number of respondents	Proposed changes
FR Y-9C, OMB No. 7100-0128.	1,481	1. New schedules for risk-based capital and leveraged buyouts. 2. Revision of off-balance sheet schedule to parallel Reports of Condition and Income. 3. New information on real estate transactions. 4. New line items and changes in existing line items to improve data. 5. New flexible supplement (FR Y-9CS).
FR Y-9LP, OMB No. 7100-0128.	1,636	1. Additional items on securities, by broad categories of securities. 2. New intercompany line item information. 3. Changes to existing line items to improve the quality of data. 4. Abbreviated cash flow statement.
FR Y-9SP, OMB No. 7100-0128.	4,439	1. Addition of separate item on securities. 2. New intercompany line item information. 3. Changes to existing line items to improve the quality of data.
FR Y-11Q, OMB No. 7100-0244.	280	1. New information on loans, by broad categories of loans. 2. Separation of operating income and expense into interest and noninterest components.
FR Y-11AS, OMB No. 7100-0244.	280	1. New information on loans, by broad categories of loans. 2. Separation of operating income and expense into interest and noninterest components. 3. Changes to existing columns to improve data quality.

Public Comments on the Proposal

Thirty-three comment letters were received on the proposal. Most of the comments were received from large holding companies, with only two companies having total consolidated

assets of less than $150 million commenting on the proposal. In these letters, comments addressed the following issues: the length of the public comment period and the public notice procedures; the implementation date for the revised reports; the proposed data requested on real estate lending; the proposed schedule requesting information on exposure to leveraged buyouts and related transactions; the proposed flexible supplement; the information requested to measure risk-based capital; reporting nonrecurring items on the income statement; the parent company cash flow statement; the estimate of hours used in completing the form; and comments on the instructions.

Public Comment Period and Public Notice Procedures

One commenter raised the issue as to whether the appropriate procedures were followed under the Administrative Procedures Act, as they viewed the proposed changes as a rulemaking rather than simply a revision of reporting requirements. Four bank holding companies indicated that as a practical matter the public comment period was too short and that the **Federal Register** notice did not provide sufficient information to notify bank holding companies of the proposed changes in reporting requirements. Another bank holding company also indicated that the notice did not provide sufficient detail on the proposal. The commenters recognized that the comment period was extended to May 31, but suggested that it should have been extended to at least June 30, 1990.

The current reports are authorized by section 5(c) of the Bank Holding Company Act and are presently required to be filed pursuant to § 225.5 of Regulation Y. Regulation Y does not specify the detailed information to be contained in each report. Thus, the proposed revisions can be made without altering the provisions of Regulation Y. Nevertheless, some commenters contend that because the revisions will have an impact on the holding companies' future accounting and reporting practices, rulemaking procedures are required.

The Board does not believe that changes in data collection procedures necessarily trigger the formal rulemaking requirements. In any event, the procedures used in this case complied with the formal rulemaking procedures. Notice of the Board's proposed revisions was published in the **Federal Register**, which indicated that the revised forms and a supporting statement explaining the needs for the changes was available upon request. Accordingly, the commenters had all of the information necessary to comment on the proposal. In addition, the initial comment period of 30 days was extended by almost four weeks and the **Federal Register** notice of the Board's final action specifically addresses the comments that were received. Finally, a delay in the effective date from June 30 to September 30 has been adopted by the Board. Thus, the ability of the affected bank holding companies to participate in the revision process was preserved.

Comment Period and Implementation Date

A number of bank holding companies suggested that the implementation date of the final reporting requirements be extended beyond the proposed date of June 30, 1990. Three bank holding companies suggested that the implementation date should be September 30, 1990. One of these companies also suggested that the changes to the income statement be deferred until March 31, 1991. Four bank holding companies proposed that the changes be implemented for December 31, 1990. Another two companies recommended March 31, 1991. Others stated that the changes should be implemented six months after receipt of the final reporting forms and instructions. Other commenters stated that the implementation should occur in a later time period, with one suggesting phasing in different items over a 6 to 9 month period. One noted that there was not enough lead time given the proposed date of June 30, 1990.

The Board reviewed the requests for a delay in implementing the revisions to the bank holding company reporting requirements and the Board approved the deferral of the changes until September 30, 1990. The Board believes that the adoption of a September 30 date is necessary to ensure that accurate data will be available at the time of the implementation of the Risk-Based Capital Guidelines. Additionally, delays in the receipt of information on leveraged transactions and real estate exposure will reduce the ability of the Federal Reserve to monitor developments in these areas.

Real Estate Lending

The proposed revisions requested information on the types of real estate lending in which the consolidated bank holding company and the domestic offices of the holding company engage. The present report only collects data on all loans secured by real estate with no distinction among the types of real estate. The revised report, as issued for public comment, proposed to collect outstanding balances for (1) loans secured by real estate for construction and land development purposes, (2) loans secured by farmland, (3) loans secured by one-to-four family residential properties, (4) loans secured by multifamily residential properties, and (5) loans secured by nonfarm nonresidential properties. The report also proposed to collect information providing the identical detailed breakdown of real estate loans for nonperforming loans, and for the schedule of loan charge-offs and recoveries. In addition, the proposal would have collected information on construction and development loans that are not secured by real estate and, when applicable, information on real estate investments.

The commenters noted that the information requested on real estate loans that are past due or have been charged-off is not presently available as it is not requested on the call reports filed by the subsidiary banks. One commenter noted that of all the proposed changes, these were the ones that would cause them a hardship. While the commenters did not debate whether the information is critical for supervisory purposes, it was noted that systems would have to be implemented to capture the information. Eleven banking organizations commented on this issue. The larger banking organizations with foreign operations commented on the requirement to provide the loan detail on a consolidated basis in addition to the domestic office detail.

One bank holding company recommended that the categories be expanded to reflect the risks associated with different types of properties. The company suggested three additional categories of loans: land acquisition and development, construction and major rehabilitation, and interim financing. Another bank holding company expressed concerns over the confidentiality of information on charge-offs and recoveries.

Comments were also received on the proposal to collect data on loans and commitments when the purpose of the credit is to finance real estate, but the credit is not secured by real estate. One bank holding company expressed concern over the definition of real estate lending not secured by real estate and suggested that the definitions use SIC Codes to ensure comparable reporting by all bank holding companies. Another commenter also suggested using SIC Codes. A third suggested a two part definition. This suggestion would

include both loans made for the express purpose of financing real estate as evidenced by loan documentation and loans made to organizations or individuals 80 percent or more of whose revenues or assets are derived from or consist of real estate ventures or holdings. In addition, another bank holding company suggested that another item be added to report loans secured by real estate, where the funds advanced were not used to finance real estate related activities. Two companies commented that these items should be limited to domestic offices only.

In response to the comments received, the Board approved the collection of data on domestic office loans by type of real estate collateral, rather than on a consolidated basis. However, the Board continues to believe that the additional information on past due and nonaccrual real estate loans by type of property and data on charge-offs and recoveries on such loans is necessary to measure the risks in the real estate portfolios of bank holding companies.

With respect to the comments on the collection of information on loans to finance commercial real estate, construction and land development and the accompanying instructions, the Board has revised the title of the line items and clarified the instructions in accordance with the commenters suggestions.

Leveraged Buyouts and Other Related Transactions

The proposal, issued for comment, contained a schedule to the FR Y-9C that would provide information to measure leveraged buyout (LBO) exposure in bank holding company organizations. Bank holding companies with total consolidated assets of $1 billion or more would provide the most detailed information on LBOs. The schedule, Schedule HC-K, requested information on debt (both senior and subordinated debt), equity investments, income, past due and nonaccrual leveraged buyouts and related transactions, and on unused commitments. In addition, the schedule included a request to report the exposure to LBOs of the bank subsidiaries of the holding companies. Holding companies with total consolidated assets of less than $1 billion are requested to report only limited detail on LBOs and related transactions.

Comments on the proposal requesting information on leveraged buyouts and related transactions were received from the large banking organizations. Three holding companies recommended changing the title of the schedule to "Highly-Leveraged Transactions." Two of these companies questioned the need for the level of detail on an on-going basis. Six holding companies questioned the need for the information on the income derived from leveraged buyouts. These same companies also questioned providing data on participations sold in leveraged buyouts. The companies stated that the definition of highly leveraged transactions should be consistent with the definition adopted by the three federal banking agencies for supervisory purposes. Specific comments were received from bank holding companies on the definition of fees, on combining mezzanine financing and equity investments, on expanding unfunded commitments to include other contingencies such as letters of credit and guarantees, on combining the two items on different types of mezzanine financing into one item, on the separate reporting of loans held by subsidiary banks, on the inclusion of debt relating to ESOP's, and on requesting data on total revenue rather than interest income and fee income. One bank holding company suggested that net charge-offs be added to the report.

In response to the comments received, the Board adopted the following changes in Schedule HC-K: (1) Changed the title of the schedule and the appropriate line item titles to highly-leveraged transactions (HLTs) and revised the instructions accordingly; (2) added a new line item for net HLT loan charge-offs; (3) revised the instructions to clarify definitions and to ensure that the definition of HLTs on this report is identical to the interagency definition of HLTs; (4) eliminated the income items on LBO lending; and (5) reduced the level of detail reported on mezzanine financing and equity investments.

Flexible Supplement

The revised reporting requirements issued for comment contained a new supplement to the FR Y-9C to obtain information on potential or emerging weaknesses in financial instructions or other areas of supervisory interest. The information collected on the supplement would be of a critical nature to assess the financial condition of financial institutions or to measure exposure to specific types of credits or industries. In issuing the supplement for comment, it was anticipated that the supplement would only be used on an exception basis and would not collect information on a routine basis. However, the data requested in the supplement could be requested on a one time basis or for several quarters and the type of information requested could vary over time. When the supplement is collected, it would be submitted as part of FR Y-9C. The number of items on the request on the supplement for a particular quarter would be limited to a maximum of ten items. Although the Federal Reserve could collect data on this supplement as often as quarterly, approval of the collection of specified items would be requested only on an "as needed" basis. Approval to collect financial information on the supplement would be required from the Chairman of the Board Committee on Banking Supervision and Regulation.

A number of bank holding companies commented on this aspect of the proposal. One holding company stated "we have no objection to this schedule if it is limited to hot, new, non-recurring topics which need immediate disclosure on a temporary basis and are subject to reasonable estimation." Another commenter suggested that the use of estimates and internal definitions be allowed. The other comments included the need for at least 30 days prior to the collection of the data, lack of flexibility in automated systems, an extended period to file the information, the need for some materiality criteria, and the absence of procedures for due process.

In response to the comments, the Board notes that the information that would be collected on the flexible supplement would be critical supervisory information and that in submitting the data, companies generally will be allowed to use estimates and internal definitions along with any appropriate materiality criteria.

Financial Data to Measure Risk-Based Capital

The proposal issued for comment would collect information on the consolidated financial statements of bank holding companies to calculate the risk-based capital ratios for bank holding companies with total consolidated assets of $150 million or more. The original proposal to collect information to calculate the risk-based capital ratios consisted to the following schedules on the consolidated financial statements of bank holding companies (FR Y-9C): (1) Schedule HC-I to be submitted by bank holding companies with total consolidated assets of $1 billion or more and an abbreviated version to be completed by the smaller bank holding companies; (2) Schedule HC-IC to obtain information on capital items required to compute Tier 1 and Tier 2 capital ; (3) Schedule HC-J, which would be submitted by bank holding companies with subsidiaries engaged in underwriting and dealing in bank-

ineligible securities to a limited extent (Section 20 subsidiaries).

The large banking organizations offered comments on the proposed reporting requirements for risk-based capital. One commenter stated that the level of detail requested on the risk-based capital schedule is sensitive and is not available elsewhere, and if collected, it should be accorded confidential treatment. A number of holding companies recommended that the Board adopt the approach taken for banks in the Call Report. One company stated that the level of information could be obtained through the examination process and their system has been sufficient to provide examiners and the Board with appropriate information to monitor their progress towards the guidelines. Another company indicated that the commercial bank reporting and the bank holding company reports should be consistent, but noted further that "the additional data requested by the FRB is informative and meaningful." A holding company indicated that it would cost several hundred thousand dollars to initially provide the data. Two companies provided copies of their risk-based capital worksheets, one of them contained a finer level of detail than the proposal approved by the Board for comment. Comments were also received from four bank holding companies on providing risk-based capital information that includes their Section 20 subsidiaries. They recommended that the data be collected only on a basis that excludes the Section 20 subsidiary. It was suggested that if the fully consolidated data were collected that it should be given confidential treatment.

In response to the comments received on the risk-based capital schedules, Schedules HC–I and HJ–J, the Board approved the collection of a less detailed version of schedules than was approved for public comment. The Board has combined the detailed line breakdown for investment securities and for loans and lease financing receivables for large bank holding companies; a single line for investment securities and a single line item for loans and lease financing receivables are to be reported by risk weight categories rather than fifteen line items as was proposed. In addition, customers' liability on acceptances outstanding has been combined with "all other assets." Moreover, the Board approved the combination of six off-balance sheet items. These eliminations will reduce the required reporting for risk-based capital by one-half for most bank holding companies with total consolidated assets of $1 billion or more, a reduction of 53 cells.

The information provided on these schedules is the sole source of risk-based capital information for bank holding companies. In addition to calculating the risk-based capital ratios of individual bank companies, the information will be used to determine the credit risk characteristics of the on- and off-balance sheet transactions of the holding company and to analyze the capital plans of holding companies. In addition, this information will allow Board and Reserve Bank staff to verify the accuracy of the information provided by the bank holding companies. This verification process becomes more important in light of the number of supervisory and regulatory initiatives that will rely on risk-based capital calculations, including daylight overdrafts.

These data will be used by Board and Reserve Bank staff to monitor the risk-based capital adequacy of bank holding companies between inspections and to evaluate the applications of bank holding companies to merge or acquire other organizations or to establish additional nonbanking activities. Moreover, the risk-based capital ratios for individual companies will enable the Board to respond to inquires for these ratios from Congress and the public.

In order to minimize the burden associated with the collection of information for risk-based capital purposes, the instructions to the reports allow bank holding companies to risk weight a transaction in the highest risk-weight category possible for that item. For example, if a holding company has several loans guaranteed by the Small Business Administration, but not enough to warrant the costs associated with identifying the guaranteed portions of the loans, the company may choose to risk weight the entire amount of the transaction in the 100 percent risk category, rather than weighting the guaranteed portion of the loan in the 20 percent risk weight category, as is permitted under the Risk-Based Capital Guidelines.

To reduce the burden further, bank holding companies will have the option of reporting balance sheet assets and off-balance sheet items at 100 percent risk weight, rather than reporting a detailed breakdown of assets by risk weight category, if they meet the minimum Tier 1 and Total Risk-Based Capital Ratios.

Bank holding companies with subsidiaries that engage in underwriting and dealing in bank-ineligible securities are required to complete Schedule HC–J and the appropriate Schedule HC–I described above so that the Federal Reserve can assess the capital adequacy and calculate the risk-based capital ratios for both the consolidated bank holding company and the consolidated bank holding company without the securities affiliate as required by Risk-Based Capital Guidelines and the Board Orders authorizing bank holding companies to engage through subsidiaries in underwriting and dealing in bank-ineligible securities to a limited extent. The comments from bank holding companies with Section 20 subsidiaries suggested that these companies be required to submit only Schedule HC–J, which provides information to calculate risk-based capital ratios, excluding the Section 20 securities affiliates. However, consistent with the Guidelines, capital adequacy is assessed on both the calculation of the risk-based capital ratios with and without the securities affiliates.

In addition, the commenters requested that if both schedules were required, then Schedule HC–I for fully consolidated organization should be held confidential. The Board believes that, in general, granting routine confidentiality to companies with section 20 subsidiaries is not appropriate as fully consolidated information will be available for all other companies.

Disclosure of Nonrecurring Items Reported on the Income Statement

The Board approved for public comment the disclosure of all nonrecurring transactions. A number of companies suggested that a materiality criteria be adopted and that the definition be clarified. In response to the comments, the Board has adopted a materiality criteria. The Board also adopted clarification to the instructions to ensure consistent reporting among holding companies.

The Parent Company Only Cash Flow Statement for Bank Holding Companies With Total Consolidated Assets of $150 Million or More or With More Than One Subsidiary Bank

The original proposal contained an abbreviated cash flow statement. Several holding companies suggested that the Board reconsider and delete the requirement. A holding company suggested that if the requirement is maintained, the format of the cash flow statement should be consistent with that required by Financial Accounting Standards Board (FASB).

In response to the comments received from the bank holding companies, the

Board has approved the replacement of the proposed cash flow statement with a cash flow statement in the format of FASB Statement of Financial Accounting Standards No. 95, Statement of Cash Flows. This revision will reduce the burden associated with providing the Federal Reserve with such information. The Board believes that the information collected on this statement will permit Board and Reserve Bank staff to analyze the liquidity position of the parent company and the parent company's ability to act as a source of strength to its banking subsidiaries.

Comments on Instructions

The bank holding companies provided useful comments on the instructions to the revisions circulated for public comment, particularly in the areas of real estate activity, nonrecurring transactions, and the parent company intercompany transactions. A number of the comments have been incorporated by the Board in the final instructions.

Comments on Other Reports

The Board received only one comment on the Parent Company Only Financial Statement for One Bank Holding Companies With Total Consolidated Assets of Less Than $150 Million (FR Y-9SP) and one comment on the Combined Financial Statements of Bank Holding Companies (FR Y-11Q and Y-11AS).

The commenter on the FR Y-9SP stated that any change, regardless of what it is, is burdensome and time consuming to learn about. The commenter on the FR Y-11Q/Y-11AS suggested the addition of one item for unearned income, which the Board approved.

Estimate of Reporting Burden

A number of companies commented on the estimates on reporting burden hours for the FR Y-9C and FR Y-9LP. One company stated its burden was 1,000 hours. Another company stated its burden would increase by 104 hours. A third company stated its burden would add at least 6 hours, with the flexible supplement adding an additional 10 hours. The 30 hour figure reported to OMB represents an average of for all respondents; further, a range from 5 hours to 1,200 hours is estimated for the actual respondents.

Legal Status and Confidentiality

Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(b) and (c)) and § 225.5(b) of Regulation Y (12 CFR 225.5(b)) authorize the Board to require the report.

Under the existing guidelines, the data submitted in response to the bank holding company reporting requirements are available to the public unless a specific company requests confidential treatment for all or part of the reports and the request is granted by the Board. With respect to the changes in reporting requirements, the Board will grant confidentiality on the new reporting requirements for risk-based capital, for highly-leveraged transactions, for assets past due 30-89 days and still accruing, and for the new supplement to the consolidated bank holding company financial statements. Confidential treatment will be accorded pursuant to section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)). Routine confidentiality on risk-based capital reporting is approved only through year-end 1990 when the minimum capital ratios under the Risk-Based Capital Guidelines become effective.

Regulatory Flexibility Act Analysis

The Board certifies that the bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Small bank holding companies are required to report semiannually, rather than quarterly, as is required for more complex or larger companies. The reporting requirements for the small companies require significantly less information to be submitted than the amount of information required of multibank or large bank holding companies. In addition, the reporting requirements allow for reporting of less detail for the smaller companies on the newly approved items.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, Date August 2, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-18496 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

Bank of Montreal, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a) or (f) of the Board's Regulation Y (12 CFR 225.23 (a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities of assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors no later than August 31, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bank of Montreal*, Montreal, Canada; Bankmont Financial Corp., New York, New York; and Harris Bankcorp, Inc., Chicago, Illinois; to engage *de novo* through its subsidiary, Harris Investors Direct, Inc., Chicago, Illinois, in providing investment advice pursuant to § 225.25(b)(4), combined with securities brokerage activities pursuant to Board order effective August 10, 1988 (*Bank of New England Corporation*, 74 Federal Reserve Bulletin, 700 (1988)). Also, to buy and sell securities as a riskless principal pursuant to Board order (*Bankers Trust*

New York Corporation, 75 Federal Reserve Bulletin 829 (1989); and *Norwest Corporation*, 76 Federal Reserve Bulletin 79 (1990)].

Board of Governors of the Federal Reserve System, August 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18497 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

Frank L. Coffman, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the Offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 22, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Frank L. Coffman, Jr.*, Harrison, Arkansas; to retain 0.25 percent, for a total of 10.9 percent of the voting shares of Mountain Home Bancshares, Inc., Mountain Home, Arkansas, and thereby indirectly acquire First National Bank & Trust Company of Mountain Home, Mountain Home, Arkansas.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missiouri 64198:

1. *Ivan D. Shupe*, Macomb, Illinois; to acquire an additional 2.97 percent of the voting shares of Kersey Bancrop, Inc., Kersey, Colorado, for a total of 26.9 percent, and thereby indirectly acquire Kersey State Bank, Kersey, Colorado, and Platteville State Bank, Platteville, Colorado.

Board of Governors of the Federal Reserve System, August 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18498 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

Exeter Bancorporation, Inc., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Co.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 31, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Exeter Bancorporation, Inc.*, St. Paul, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Ada, Ada, Minnesota; 94 percent of the voting shares of Karlstad State Bank, Karlstad, Minnesota; 100 percent of the voting shares of Crookston Financial Services, Inc., Crookston, Minnesota, and thereby indirectly aquire Crookston National Bank, Crookston, Minnesota; and 100 percent of the voting shares of St. Stephen Bancorporation, St. Stephen, Minnesota, and thereby indirectly acquire St. Stephen State Bank, St. Stephen, Minnesota.

In connection with this application, Applicant also proposes to acquire Karkstad Insurance Agency, Inc., Karlstad, Minnesota, and thereby engage in general insurance agency activities in Karlstad, Minnesota, which has a population of less than 5,000 pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18499 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

Landmark/Community Bancorp, Inc. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 31, 1990.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Landmark/Community Bancorp, Inc.*, Hartford, Connecticut; to acquire 10.06 percent of the voting shares of SBT Corp., Old Saybrook, Connecticut, and thereby indirectly acquire Saybrook Bank and Trust Company, Old Saybrook, Connecticut.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mercantile Bankshares Corporation*, Baltimore, Maryland; to acquire 100 percent of the voting shares of Farmers & Merchants Bank—Eastern Shore, Onley, Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Brannen Acquisition Corp.*, Inverness, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Brannen Banks of Florida, Inc., Inverness, Florida, and thereby indirectly acquire Bank of Inverness, Inverness, Florida.

2. *Synovus Financial Corp.*, Columbus, Georgia, and TB&C Bancshares, Inc., Columbus, Georgia; to acquire 100 percent of the voting shares of First Coast Community Bank, Fernandina Beach, Florida.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Community Bancshares, Inc.* Milton, Wisconsin; to acquire 26.65 percent of the voting shares of Ottawa National Bank, Ottawa, Illinois.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Old National Bancorp*, Evansville, Indiana; to acquire Farmers Bank & Trust Company, Henderson, Kentucky.

F. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Alpine Banks of Colorado*, Glenwood Springs, Colorado; to acquire 100 percent of the voting shares of Alpine Bank, Clifton, Clifton, Colorado, a *de novo* bank.

G. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *High Plains Bancshares, Inc.*, Muleshoe, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Muleshoe State Bank, Muleshoe, Texas.

2. *Texas Financial Bancorporation, Inc.*, Minneapolis, Minnesota; to become a bank holding company by acquiring 82.48 percent of the voting shares of First State Bank of Denton, Denton, Texas.

Board of Governors of the Federal Reserve System, August 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18500 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

Second Bancorp Incorporated, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 31, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Second Bancorp Incorporated*, Warren, Ohio; to acquire Peoples Federal Savings and Loan Association, New Kensington, Pennsylvania, and thereby engage in savings and loan activities pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Carlson Bancshares, Inc.* West Memphis, Arkansas; to acquire Southern Life Insurance Limited, West Memphis, Arkansas, and thereby engage in reinsuring credit life and disability policies that are directly related to an extension of credit by Applicant or any of its subsidiaries, and such policies are limited to reinsuring the repayment of the outstanding balance due on extensions of credit in the event of death, disability, or involuntary unemployment of the debtor pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in Crittenden County, Arkansas.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.*, St. Louis, Missouri; Mercantile Bancorporation, Inc., St. Loius, Missouri; and United Missouri Bancshares, Inc., Kansas City, Missouri; to acquire Credit Systems Incorporated, St. Louis, Missouri, and thereby engage in the issuance and servicing of Bank credit cards and related cardholder accounts pursuant to § 225.25(b)(1); and providing to financial institutions all facilities and processing services necessary for them to offer bank card services to their merchant customers pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18501 Filed 8-7-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Cooperative Agreements for Drug Abuse Campus Treatment Demonstration Projects

OFFICE: Office for Treatment Improvement.

ACTION: Request for applications for cooperative agreements for drug abuse campus treatment demonstration projects.

Purpose

The general purpose of this program is to improve the therapeutic residential community treatment model and to increase the efficacy, efficiency, and economy of the total drug abuse treatment system.

Applications are invited for Cooperative Agreements for Drug Abuse Campus Treatment Demonstration Projects on the contingency that funds will be appropriated for this program in Fiscal Year 1991. If funds are appropriated, the Office for Treatment Improvement (OTI) will fund at least two drug abuse campus treatment demonstrations through the cooperative agreement mechanism.

A treatment campus is a setting where several providers, sharing certain common resources, deliver residential treatment services for drug abuse. The goals of the campus treatment demonstration are:

- To evaluate the efficacy and efficiency of alternative approaches to treatment using scientifically valid methods of comparison. Evaluation will include consideration of both a) Cost of treatment and b) attrition from treatment and treatment outcome for patients in the community following completion of treatment;
- To derive from evaluation of individual treatment programs and the campus as a whole, useful models for treatment that can be utilized by other States and communities;
- To increase the capacity for residential treatment of drug dependents—especially of certain populations, including adolescents, minorities, pregnant women, and female addicts and their children—in States with especially high concentrations of such drug dependent individuals.

The cooperative agreement mechanism involves substantial participation by Federal staff in the conduct of the project. This mechanism is being used in order to facilitate and assist States with establishing this new treatment delivery mechanism and to ensure that the evaluations carried out in conjunction with this program are designed and implemented in a manner that is consistent with the general purpose of this program.

Background

Research over the past 20 years has shown that residential drug addiction treatment programs which have evolved from the therapeutic community model can induce substantial and long lasting reductions in drug use and criminal behavior among those individuals who remain in treatment for more than 90 days. Such benefits are observed not just in those who use any one particular drug, such as heroin, but also in those who use a variety of drugs. More recently, similar principles of behavioral change have been incorporated into programs designed for teenagers, but there is far less information on outcome for these programs.

Another important research finding is that those who enter treatment under some form of external compulsion appear to benefit almost as much as those who enter or stay on a voluntary basis.

Despite the evidence that such treatment programs can play an important role in the overall national strategy for drug abuse control, several questions must be resolved if residential treatment programs are to be utilized to their greatest advantage. Among those questions are:

- To what degree can the present 12–18 month period of the residential phase of treatment be reduced before there is a significant decrease in program effectiveness?
- To what degree will reducing the expected duration of residential treatment decrease the dropout rate?
- To what degree can programs utilize advances in medicine to deal with patients who have additional psychiatric (e.g. severe depression, manic-depressive disorder, schizophrenia) and/or medical (ARC, AIDS, etc.) problems without compromising their central organizing commitment to treat illicit drug use?
- How does the treatment delivered by residential programs built on the therapeutic community model compare to 28-day chemical dependency programs with respect to impact and cost?
- To what degree can such programs incorporate educational components that will better prepare drug abusers without useful legitimate skills to compete for jobs following treatment completion?

These questions can be addressed only by careful comparisons of treatment outcome, including those between traditional therapeutic community residential programs and programs which differ from them on one or more key characteristics, e.g. more medical input, shorter residential phase, alternative philosophical premise, etc.

It is recognized that all of these questions cannot be addressed for all patient groups by any one campus proposal. Of necessity, an applicant will have to choose which question it can best address given the availability, skills and interests of treatment providers and the populations within the State that most need services.

OTI intends to support at least two demonstration projects to address these, and other, questions within the context of the campus treatment setting.

The evaluation of the campus projects will be performed by the National Institute on Drug Abuse (NIDA) through a contract between NIDA and a NIDA-designated research/data management organization. Treatment Campus awardees will be expected to participate in and cooperate with this evaluation.

Definition of Residential Treatment

There is no universally accepted definition of residential treatment. Used here it has the following characteristics:

- It is a program in which patients spend 24 hours a day for at least the first phase of treatment (i.e., the first 28 days, the first 6 months).
- It is a program that requires patients to acknowledge the presence of drug dependence problems over which they no longer have control.
- It is a program which is not primarily focused on acute medical problems.
- It is a program in which patients are expected to assume some responsibilities for the day-to-day program operations. The degree of responsibility will vary with the population served and the length of residence in the program.

In general, residential programs are not staffed as densely as acute medical or psychiatric facilities because they are not geared for exceedingly sick patients; grossly psychotic, assaultive, suicidal, or severely cognitively impaired patients.

There are two major residential models:

- Those evolved from therapeutic communities for drug addicts (e.g. Daytop Village, which initially involved ex-addicts as key staff members), often with little professional input either medical or psychological. Currently, it is typical for some staff to have professional training and credentials. More recently, in many instances,

therapeutic communities utilize formal treatment plans, and medical/psychiatric staff.

• Those evolved in the context of hospital programs for alcholism. These often involve phsycians and nurses, but the major organizing principle of them is the 12-step program of Alcoholics Anonymous. Personnel who are themselves recovering from alcoholism or drug dependence play key roles. These programs are often built around a 28-day residential phase.

Eligibility

Eligibility is limited to States in accordance with section 509G(b) of the Public Health Service Act. A single State agency for drug abuse treatment, designated in writing by the Governor, may apply.

For purposes of this request for applicaitons, "State" is defined as one of the 50 States, the District of Columbia, Guam, the Commowealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, or the successor States to the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

Eligibility is restricted to States in order to maximize the long-term benefit of these awards. It is anticipated that the high degree of State involvement in the projects from the outset will facilitate planning for future efforts in campus treatment settings. Moreover, it is expected that, in the event that campus treatment settings prove to be efficacious, States will utilize Alcohol, Drug Abuse and Mental Health Services (ADMS) block grant funds, and other non-federal funds, to continue campus projects after federal funding for the projects has ended.

It is expected that awards to States will ensure coordination of the many State and local agencies that may be involved in the licensing of providers to operate on the campuses. It is also expected that proposed projects will be consistent with the State's Block Grant drug abuse treatment programs and plans, as well as with all other drug abuse programs subject to the State's control.

Program Description

Introduction

Cooperative agreement-supported campus drug abuse treatment demonstrations will permit the comparison and evaluation of residential treatment programs for target populations that differ from each other in important ways. They will also permit the bypassing of certain problems in expanding residential treatment capacity, the sharing of certain expensive resources, the enrichment and development of staff of the several providers through training and interchange of views, and the ongoing involvement, including technical assistance and monitoring, of OTI staff. An evaluation of this program will be designed, conducted, and funded under a separate contract to be awarded by the National Institute on Drug Abuse (NIDA).

Campus Facilities

It is expected that each applicant State, or State-designated agency, will provide a physical plant, suitable with minor renovations on the part of treatment providers, for the treatment and support programs proposed, and will continue to provide maintenance of the physical plant without Federal reimbursement through the period of award. The applicant must also provide written assurance that any issues related to zoning and licensing have been resolved or are exclusively under the authority of the applicant. In addition, the applicant (State) will be expected to contribute 20 percent of the total costs of operating and delivering services of the campus project, including aftercare, but exclusive of the evaluation component.

There are no geographic specifications or limitation on the location of the campuses. However, since treatment for drug dependence generally requires some form of followup care after an intital period of residential care, provision must be made for followup care to patients following discharge into the community. Also, since some programs provide emphasis on working with families, provision must be made in such programs for families living at some distance from the campus to interact with the treatment process.

When fully operational, the campus should range from a capacity of 300 to 500 patients. Projected capacity should be no greater than 500 patients.

It is understood that a variety of existing but under-utilized facilities, or portions of such facilities, originally developed for other purposes could meet the general requirements. Examples are summer camps, private schoool and college campuses, tuberculosis sanitaria, resort hotels, former mental hospitals, and military training facilities. While the use of newly created, state funded, facilities is not precluded, it is unlikely that a proposal to build new facilities will be economically feasible, or that such new facilities could be made available rapidly enough to permit the delivery of services within the first year after award of the cooperative agreement. (See also Terms and Conditions of Support, below.)

Each campus must also provide space and facilities for the conduct of the NIDA-sponosred evaluation (see description under Evaluation, following pages). For the first 6 months of operation, evaluation activities will consist only in gathering of information on the kinds of patients who seek treatment at the campus and on the problems associated with the development of operational programs and the sharing of centralized resources. This start up period will permit the providers to build up their resident populations and work out any major operational problems. The formal reserach activities will not begin until the seventh month of operation, however, the campus intake unit will attempt to make random assignments to the residential units within the first month of operation.

Alternative Structures for the Campus

In order to answer any questions about the effectiveness of treatment for a particular population (e.g. adolescents or pregnant women), there must be at least two treatment programs on the campus that treat the same population but that differ in some significant manner (e.g, in terms of duration of treatment). For example, a campus might propose to establish two adolescent units; one modeled on a 28-day, a 12-step chemical dependency program approach (followed by about 26 weeks of community-based outpatient care), and a second adolescent unit modeled on a 6-month therapeutic community model (with about 26 weeks of community-based outpatient care). Adolescents seeking or referred for treatment would then be assigned to either of the units in a manner that would assure that baseline characteristics are comparable. The same application might include a proposal to establish three adult units all based on the therapeutic community model, but differing in expected length of residential treatment. For example, one might involve a residential phase of 6 months duration followed by 6–8 months of intensive outpatient treatment; another might involve 9 months of residential treatment followed by outpatient treatment, while a third might be the more traditional 12-month residential program.

Another useful variation would be the comparison of three adult units, one of which is a 28-day chemical dependency model followed by 6 months of

aftercare, compared to a 6-month and a traditional 12-month therapeutic community model, each followed by community-based aftercare.

In still another variation, an applicant might propose to establish two adolescent units as described above and three units specializing in treating pregnant addicts or women drug abusers and their children. Three units might differ from each other in length of expected treatment or in some other fashion so that the comparison units could provide useful information for other areas of the country.

Another important issue on which individual programs might differ is in their utilization of psychotropic medications and professional psychiatric consultation to deal with dual diagnosis patients (those diagnosed with some form of mental illness in addition to one or more addictive disorders).

The essential element for a useful campus proposal are (1) That for each treatment unit (e.g. a unit for adolescents) there must be on the campus at least one other unit dealing with the same population, but differing from the first in some clinically important way, and (2) the proposal should be structured so that a comparison of outcome and costs among the units is possible.

Because of the dearth of information on the effectiveness of programs for adolescents and on 28-day chemical dependency units, applicants are encouraged to propose inclusion of such units.

Patient Populations

All campuses must focus on the treatment of one or more of the following populations: Racial and ethnic minorities, pregnant women, female addicts and their children and adolescents. Services for each of these populations need not be the focus for comparison or evaluation purposes. For example, the main focus of evaluation might involve a comparison of the outcome of treatment of adolescents and adults treated in programs that vary in duration, but because there might be so few women with children in the programs, outcome evalution for this group might not be feasible.

Prior to admission all patients will be required to provide informed consent to accept the residential treatment program to which they are assigned by the campus intake unit. Those who decline to enter the program to which they are assigned, or who drop out before completing the prescribed residential phase of the program, may not be admitted to other programs on that campus for at least 6 months.

Patients may be self-referred or be referred from treatment agencies, individual practitioners, or the criminal justice system. Patients may be admitted from any area in the State, or, at the discretion of the State authority, even from other States.

Applicant treatment providers are responsible for describing appropriate eligibility criteria for admission to treatment in their applications. The objectives of drug abuse treatment (e.g., rehabilitation, resocialization) may be inappropriate for patients with end-stage diseases, and residential programs may not be equipped or staffer to meet their special needs. These patients should be referred to facilities which are more appropriate to their needs. The application should also describe (1) How referral will be made to other treatment programs for those prospective patients who do not meet the specified criteria for eligibility at the campus to which they have been referred or to which they have sought admission and (2) how the campus will handle those patients who do not respond to their assigned treatments, since the designs does not allow for immediate readmission to other programs on the campus.

Treatment Providers/Configurations

A campus should include a minimum of five residential units. Providers may operate any number of units serving either adolescents or adults, if they have had previous documented experience delivering treatment for drug abuse to those populations. Only a provider who has had experience operating short-term (28-day) residential drug abuse treatment program may operate such a unit. The intermediate (26-week) and long-term (12-month) units may be operated by any provider who has had experience with residential programs with stays of at least 6 months.

Providers must be willing to accept patients meeting specific predefined eligibility criteria, who are referred by the central campus assessment and intake unit. It is not anticipated that methadone or other medications that will maintain the resident in a state of physical dependency, will be used within the campus setting. However, providers must state their policy on the therapeutic use of medications to treat psychopathology that may co-exist with drug dependence. Some campus applications may elect to systematically vary the use of psychotropic agents and psychiatric consultation, permitting comparisons of the effectiveness of units which differ very significantly in their use of such consultations, and agents. For example, there could be two adult or two adolescent units with equivalent expected durations of treatment that differ primarily in the degree to which professional consultation is used and/or medical treatment of associated psychopathology is utilized.

Providers must have the capacity to deliver, or arrange for the delivery of after-care services for a period of at least 6 months after the outpatient phase described earlier. Costs of these services should be included in the proposal, and will be shared by the applicant and OTI and 20/80 percent basis comparable to costs on the campus itself (see, Campus Facilities).

Required Shared Resources

In order to reduce costs, maximize efficiency, and provide for availability, a campus must provide certain resources to be shared by all treatment providers.

The following are functions for which resources are to be shared. The specific organization of these resources is to be determined by each applicant State.

Intake and Assessment

All treatment applicants will enter through a common intake and assessment unit that will conduct medical and psychological evaluations of all potential patients. After a diagnostic workup is completed and standardized information obtained, those patients who do not meet the eligibility criteria for any of the campus programs, i.e., medically unsuitable (patients assessed as psychotic or actively suicidal), will be referred to treatment programs elsewhere or to suitable medical or psychiatric units. (applicants should describe how such referrals will be carried out, but the costs of treatment for such individuals not admitted to the campus should not be included as part of the application). All others will be assigned to one of those campus programs for which they meet the pre-specified criteria.

Assignment to units may be random or may be based on other factors to be determined by the design of the NIDA based evaluation.

In order to minimize duplication of effort and burden on patients applying for treatment, the initial intake assessment will utilize a format that includes items of information required by the NIDA funded evaluation group.

The intake instrument is likely to include the completion of the Addiction Severity Index, a Diagnostic Interview Schedule or similar structured interview that will yield a DSM III-R (psychiatric diagnosis), a family history of ADM

(alcohol, drug abuse, mental health) problems, and some history of experiences in the school and criminal justice systems. NIDA will obtain OMB clearance for intake instruments, as well as post-admission information collection, which will be required for the evaluation. For planning purposes, applicants should assume about three hours of intake interviewing by a staff member with bachelor's-level formal training plus some specialized training on specific instruments to be agreed upon at the time of award.

Medical and Psychiatric Services

Each campus must provide for centralized backup medical and psychiatric services and for routine dental care. Such central services will provide some basic medical and psychiatric consultation to providers not making provision for such services as part of their programs. With the availability of such services, it is anticipated that routine problems of detoxification can be managed by at least some of the programs, thus alleviating the need for costly in-patient detoxification.

HIV/AIDS testing and counseling, testing for sexually transmitted diseases, and random urine testing, whether located centrally or within the context of each individual treatment program, must be afforded for all patients. The applicant should describe the method by which laboratory values (blood tests, urine drug screens) will be made comparable across programs (for example, a single laboratory may be used for all such work).

Criminal Justice System Linkage

Each campus must have an identified criminal justice linkage mechanism so that patients admitted under court-order or criminal justice pressure or supervision are monitored and prompt action is taken for non-compliance with the terms of supervision.

Security

Provision must be made to respond to the security needs of any campus treatment provider.

Education and Vocational Training

In addition to whatever provisions are made by the individual treatment programs (providers), each campus should provide some central facilities for academic and vocational training, e.g. lecture halls, classrooms, and workshops. A campus proposal may also include some shared educational programs for patients of more than one provider, especially for those units dealing with adolescents. Some formal linkage to State Educational and Vocational Services would be advantageous.

Recreational Facilities

While individual treatment programs (providers) may have limited recreational facilities which are not shared, each campus should make provision for general recreational facilities, e.g. outdoor exercise areas, that could, by appropriate scheduling, be shared by the patients of more than one provider.

Evaluation

An evaluation of this overall program, of each campus, and of the relative effectiveness of the treatment programs on each campus, will be designed, conducted, and funded under a separate contract awarded by NIDA. The awardee under this cooperative agreement is expected to actively cooperate with the evaluation contractor and NIDA staff in data collection activities being conducted as part of the NIDA evaluation. However, apart from utilizing and completing the specialized intake battery (described above) and allowing access to records for the evaluation, the gathering of post admission information for the evaluation will be the responsibility of the NIDA funded group. NIDA will obtain OMB clearance of evaluation data collection plans prior to their implementation.

Each campus must provide facilities, e.g. space and basic furniture, for the NIDA evaluation staff members. It is estimated that there will be about one evaluation staff person for each treatment unit. Applicants and individual providers must agree to make records available to the evaluation team and to allow regular access to staff and patients for purposes of this evaluation, both during treatment and following discharge. Full anonymity and confidentiality of individual records will be maintained. Except for this provision for confidentiality, study data, in either raw or processed form, will be available to all providers on the campus during the course of the evaluation. Collaboration with NIDA or other researchers to investigate treatment issues is encouraged.

Applicants under this cooperative agreement should include one staff position (campus research associate) to collaborate with the NIDA evaluation researchers on studies being carried out under the contract. A line item for the campus research associate should be included in the application's campus project budget.

For purposes of planning and information, an overview of the evaluation of the campus projects is presented below. NIDA's evaluation will be comprised of two separate but overlapping parts. Initially, an evaluation of the implementation of the campus programs is of most interest. After the programs have been established and are relatively stable, an evaluation of the process and outcome of treatment delivered in the campus programs will be conducted.

Implementation Studies

At the initiation of this effort, the most useful information that can be developed relates to the feasibility of the treatment campus concept, and whether the campus environment is conducive to the provision of treatment and the development of effective models of treatment. The implementation studies will include:

- A description of the establishment of the campus programs, including salient characteristics of programs and the patient populations to be treated, the capacity being developed and its utilization, and the organizational, logistical, community/environmental, and other obstacles encountered in establishing the campus programs.
- The explicit treatment models and strategies that are articulated and the extent that these are implemented. Is the treatment delivered congruent with stated models and strategies? What aftercare strategies or components are incorporated in the model?
- Stages in the development of new campus programs, particularly those related to the evolution of the treatment process and the provision of clinically appropriate treatment. What are the advantages and disadvantages of the campus environment? What are the influences on treatment assignment, retention, progress, and discharge status? What are the program's treatment activities and services, and what types of dosages of medications are provided?
- The definition and operation of intake and referral procedures, and sources for the recruitment of patients. Are patients recruited from waiting lists, the criminal justice system, or other referral sources?
- Identification of staffing requirements.
- Campus program cost comparisons.

Treatment Process and Outcome Studies

Process and outcome evaluation studies will begin after the programs have been established and have become

relatively stable. These studies should begin within one year after award of the cooperative agreements for campus demonstration projects. Preliminary comparative evaluations may be made across programs and patient types, using measures such a during-treatment patient performance measures and retention rates. Comparisons will be done between programs targeting the same population group (e.g., adolescents, women, criminal justice patients).

Process and outcome evaluations will incorporate the DATOS (Drug Abuse Treatment Outcome Study) model and will require intensive on-site data collection efforts. A draft version of the DATOS data collection instruments will be available upon request from NIDA. Contact Frank Tims, Ph.D., or Bennett Fletcher, Ph.D., at (301) 443-4060 for more information.

The DATOS model is designed to evaluate treatment process and outcome. Admissions and during-treatment data are collected for each patient. Off-site follow-up interviews may be conducted after treatment. At a minimum, the admissions data will include demographic and socioeconomic characteristics; patient locator data; treatment history; referral source; drug and alcohol use history, pattern, and severity; criminal history and status; employment history and status; Addiction Severity Index items; measures of social functioning; history and status of health problems; and a clinical assessment yielding dimensional (SCL-90) and categorical (DSM-IIIR) measures of psychopathology. During-treatment performance measures include changes in patient drug use, criminality, and behaviors, attitudes, and psychological states. The measurement of treatment process will include interviews and observational measures on a continuing basis.

Role of ADAMHA Staff

The cooperative agreement mechanism involves substantial post-award Federal programmatic participation. It is anticipated that OTI staff participation in this program will be substantial. Such involvement may include provision of extensive technical assistance; consultation on the participation in the redesign or modification of programs to meet evaluation needs; contribution of guidance to increase the potential applicability of results by other residential treatment programs; authorship, or coauthorship, of publications to make available to other treatment programs the experience and results of the campus demonstrations.

In addition, NIDA staff will design, coordinate and make available resources (through a contractor) for conduct of evaluation activities (see preceding section on evaluation). Federal staff will not participate in activities that directly involve clinical testing or treatment of patients.

The Grants Management Officer must approve, in writing, plans to subcontract any significant program activities beyond those specified in the application.

Letter of Intent

States, or State-designated agencies, planning to submit an application for a cooperative agreement under this Request for Applications are asked to submit a letter of intent by October 1, 1990. Such notification will be used by OTI for review and program planning. Also, OTI hopes to hold at least two regional technical assistance briefings for prospective applicants. Letters of intent will be used to determine the number and location of such briefings and to notify potential participants. The letter of intent is voluntary; States and agencies submitting such letters incur no obligation to submit formal applications.

The letter of intent should be no longer than two single-spaced pages and should indicate:

- Title and number of this Request for Applications
- Potential applicant State, or State-designated agency, and proposed campus site
- Name, affiliation, and address of the individual who will coordinate the development of the cooperative agreement project and application
- Overall scope of the proposed program, including a brief statement of the likely goals and objectives, specific target populations and treatment strategies, and identification of treatment providers that would deliver services on the proposed campus and proposed size of the campus (number of beds).

The letter should be directed to:

Walter Faggett, M.D., Chief, Community Assistance Branch, Office for Treatment Improvement, Alcohol, Drug Abuse and Mental Health Administration, Rockwall II Building, 10th Floor, 5600 Fisher Lane, Rockville, MD 20857.

Application Characteristics

Each eligible applicant, in collaboration with the selected treatment providers, will develop and submit a single application for funding. The application should consist of an Abstract, a Table of Contents, a Narrative section, and Appendices.

Abstract

The abstract should not exceed one single-spaced page. It should summarize clearly the key aspects of the proposed campus, including the objectives, organization, location of facilities, shared resources, and the number and type of individual treatment programs. Each treatment program on the campus should be described in term of estimated static capacity (or number of "treatment slots"), characteristics of the patient population, and treatment duration and approach. Differences in duration and approach among multiple programs treating the same patient population, should be stressed.

Narrative

The Narrative section of the application should consist of:

A. Specific Aims and Objectives
B. Background and Significance
C. Assessment and Demonstration of Need
D. Project Approach, Organization, and Implementation
E. Project Administration and Staffing
F. Resources and Budget

The Narrative section should consist of no more than 85 single-spaced typed pages. Sections A, B, and C, together, should not exceed 15 pages.

A. Specific Aims and Objectives

This section of the application should specify the goals and objectives of the proposed campus treatment demonstration program and indicate how they (1) Relate to the treatment needs identified in the needs assessment (Section C) and (2) will contribute to knowledge of and improvements in residential treatment programs for the selected target populations.

B. Background and Significance

This section should outline the historical and social context of drug abuse problems in the State, particularly with respect to the target population(s), and outline the resources that have been devoted to them. It should demonstrate familiarity with treatment programs, including residential treatment, for the target population(s). It should discuss how the proposed demonstration will relate to, expand, and go beyond current treatment efforts and indicate how the demonstration will contribute to drug treatment efforts in the State after the period of Federal support. Finally, it should indicate how the results of the proposed demonstration will contribute to a more general improvement of residential drug treatment programs.

C. Assessment and Demonstration of Need

This section must establish, through the use of qualitative and quantitative analyses and data, the residential treatment demand for the target population(s) in the applicant State. The applicant must demonstrate that the proposed program will serve unmet treatment needs and not substitute for existing programs.

The assessment approach may include such qualitiative techniques as ethnographic analyses, surveys of key individuals in the State, forums, and focus groups. The applicant should also present quantitative data which may come from such sources as the U.S. Census, market research, surveys of treatment programs, epidemiologic and other surveys, city and State planning department records, medical records and utilization figures, and criminal justice records and profiles.

D. Project Approach, Organization, and Implementation

This section of the application should specify the target population(s) to be served and any population(s) to be excluded, e.g. those patients with certain medical or psychiatric illnesses.

The proposed array of treatment programs should be described, including how that array will be amenable to comparison and evaluation in terms of impact and cost. In other words, the applicant should specify how those programs for the same patient population(s) will differ from each other and the significance of those differences.

Each of the proposed treatment programs should be described, including philosophy and treatment approach; periods in residential and after-care respectively; treatment and related services to be delivered; plans for family interaction with the treatment process, where appropriate; and any evaluation the program itself intends to carry out independent of the proposed NIDA evaluation. An implementation plan should be included indicating how treatment and other services, and increases in bed capacity, will be phased in over the 3-year project period.

Information must be presented on each of the selected treatment providers and their experience in delivering drug abuse treatment services to the target population(s).

If providers on a campus are expected to interact, such expectations should be discussed, together with the ways in which such interaction will be fostered.

The organization of shared resources to be provided should be presented. Each shared resource should be described, including its location (on or off-campus), whether it is to be provided directly or by a subcontractor, and an assessment of the degree to which each is expected to be utilized. There should be a discussion of how the providers and shared resources will relate to each other.

All processes and operations of the intake, assessment and referral unit should be described in detail.

In describing backup medical and psychiatric resources, there should be information on where these services will be located and availability in terms of time (24 hours a day? weekends?). There should be a discussion of planned provision for necessary medical services not related to the treatment program (e.g. delivery services if pregnant women are the population under treatment) and how they will be funded. Applicants should describe shared laboratory resources for medical and toxicological tests, including testing for HIV exposure. AIDS education and counseling services, whether shared or provided by individual providers, must be addressed in detail.

The campus itself should be described, including location, facilities and their appropriateness for the proposed treatment programs, and other uses of campus facilities, if any, and their impact on treatment programs.

The proposed project's relationship to State goals and objectives for utilization of the Alcohol, Drug Abuse and Mental Health Services Block Grant and the project's consistency with comprehensive State substance abuse services plans, must also be discussed.

E. Project Staffing and Administration

This section should provide detailed information on the proposed administrative structure and coordination of the campus and its components (both individual treatment programs and shared resources). A staffing plan for the campus and each component should be included, with each carefully labelled. Organizational charts, as well as resumes and job descriptions for key staff of each program and shared resource component must be included in specially labelled appendices.

The responsibilities, qualifications, and time commitment of the project director should be discussed in detail. It is expected that the project director's time commitment to the campus demonstration project will be substantial. Qualifications and time commitment of the campus research associate should also be specified. It is expected that this individual will have research experience.

F. Resources and Budget

The requested budget should be shown for each of the three years of the project period and should be separated into discrete components, e.g. overall campus, each of the proposed shared resources, and each treatment program. The budget discussion should describe and justify the resources requested, including personnel, fringe benefits, travel, equipment, supplies, renovation, and other direct costs. A description of the budgeted average annual patient census for each treatment provider, and of the campus as a whole, should be included. Average annual patient census is a function of static treatment capacity, adjusted for average capacity utilization rates which may vary depending upon the characteristics of particular patient populations.

Based upon these data, applicants must provide an estimate of the cost per-patient-per-day for each treatment provider on the campus for years 2 and 3 of the demonstration. For each treatment provider, cost per-patient-per-day equals the budgeted annual total cost of an individual treatment program, plus reasonably allocable costs associated with the program's use of shared campus resources with the exception of the central intake, assessment and referral unit, divided by the budgeted average annual patient census, divided by 365. Cost per-patient-per-day, or "per diem" estimates will vary depending upon the budgetary assumptions utilized, the extent to which each treatment provider will utilize shared resources, and expectations regarding the extent to which static program capacity is utilized on an average basis. The assumptions used to calculate cost per-patient-per-day figures for each treatment provider must be readily understandable.

Cost per-patient-per-day will form the basis for reimbursement for services rendered following the first year of campus operations (see terms and conditions of support), and will be utilized as one factor in the decision to award funding for the campus program.

This section should also describe facilities, equipment, services, and other resources available to carry out the demonstration program and specify their source, indicating terms, conditions, and timetables of availability of these resources.

Plans should also be discussed for obtaining continued support for the program after funding for this cooperative agreement program has ended.

Appendices

Appended material should be organized as follow and should be labeled for each separate component (where appropriate):

I. State/campus site letters of agreement and assurances, and copy of the Governor's designation of the State applicant agency
II. Other letters of agreement or support
III. Information on treatment providers
IV. Any additional resources and support if applicant proposes to provide more than the minimum requirements as described above.
V. Organizational charts
VI. Job descriptions of key staff
VII. Resumes of key staff

Application Process

Grant application form PHS 5161-1 (Rev. 3/89) must be used. The number and title of this Request for Applications, "OT-90-05, Cooperative Agreements for Drug Abuse Campus Treatment Projects," should be typed in items number 9 on the face page of the form.

Application kits and instructions may be requested from:

Office for Treatment Improvement, c/o Technical Resources, Inc, P.O. Box 409, Rockville, MD 20848-0919.

The signed original and two permanent, legible copies of the completed form must be sent to the address listed above.

Application Receipt, Review, and Award Schedule

Applications must be received by December 17, 1990. Applications received after that date will be returned without consideration.

Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from the U.S. Postal Service or a commercial carrier. Private metered postmarks will not be accepted as proof of timely mailing.

Applications will be reviewed and site visits made during February-April 1991. Awards will be made by May 15, 1991.

Review Process

Applications will be reviewed in accordance with Public Health Service and Alcohol, Drug Abuse and Mental Health Administration policies for objective review. One or more review groups, consisting primarily of non-Federal experts, recruited nationwide, will review the applications for technical merit.

The objective review group(s) will conduct an initial review of each application on the basis of the review criteria listed below, and will determine whether each application is competitive or non-competitive. Members of the review group(s) will conduct site visits for those applications judged to be competitive. Following the site visits, the reviewers will assign ratings based on merit. These ratings will be a major consideration in making funding decisions. Written notification of the results of the review will be sent to the States.

The rating assigned to each application will reflect an assessment of the merits of individual components, along with an assessment of the overall project. Reviewers may disapprove individual components if they are deemed not to be sufficiently meritorious. However, since the rating will reflect the assessment of all approved components and the approved project as a whole, it is important that all parts of the application be well designed.

Review Criteria

Review criteria will include:

- Adequacy and appropriateness of the proposed plan to carry out the project, including structuring/configuration of campus programs in a manner which permits meaningful evaluation;
- Feasibility of the proposed project;
- Availability of adequate facilities, other resources, and collaborative arrangements necessary for the project;
- Capacity and willingness of the applicant to cooperate in the NIDA evaluation of implementation, treatment process, and treatment outcome, and other research activities;
- Experience and qualifications of treatment providers in terms of target populations;
- Likelihood that the demonstration will provide useful information on the efficacy, efficiency, and economy of the campus and the various program modules and will contribute useful information to improve residential drug abuse treatment services generally;
- Demonstrated drug abuse problems and residential treatment need in the applicant State for the populations targeted;
- Adequacy and comprehensiveness of the needs assessment
- Clarity and appropriateness of the goals and objectives in view of the needs assessment;
- Reasonableness of the proposed budget, and appropriateness of plans for seeking future funding after this cooperative agreement has ended;
- Appropriateness and promise of the demonstration for improving residential treatment services for the target population(s), and;
- qualification and adequacy of time commitment of the project director; qualifications and experience of other key personnel.

Award Criteria

Award decisions will be made by OTI staff and will be based on:

- Overall technical merit of the project as determined by objective review;
- Physical characteristics of the proposed campus site;
- Program needs and balance;
- Geographic balance;
- Evidence of consistency and coordination of proposed project with State's Block Grant utilization plans and State comprehensive substance abuse plans;
- Potential applicability of the proposed project to other States i.e. the potential value of the information that could be derived from a comparison of treatment costs and outcome for comparable patients assigned to differing programs;
- Price comparability among applicant projects and individual treatment providers, as evidenced by cost per-patient-per-year estimates, and;
- Availability of funds.

All or only some of the projects included in an approved State application may receive support based on reviewers' comments and/or considerations of program balance or contribution to the overall evaluation of the program.

Intergovernmental Review

Intergovernmental review requirements of Executive Order 12372, as implemented through Department of Health and Human Services Regulations at 45 CFR Part 100, are applicable to this program. Through this process, States, in consultation with local governments, are provided the opportunity to review and to comment on applications for Federal financial assistance. Applicants should contact the State's Single Point of Contact (SPOC) as early as possible to determine the applicable procedure. A current listing of SPOCs will be included in the application kit. SPOC comments should be forwarded within 60 days of the receipt date to:

Office for Treatment Improvement, c/o Technical Resources, Inc., P.O. Box 409, Rockville, MD 20848-0919.

OTI does not guarantee to accommodate or to explain comments from the SPOC that are received after the 60-day period.

Period of Support

Support must be requested for a period of three years. Annual awards will be made subject to continued availability of funds and progress achieved.

Availability of Funds

Although funds have not been appropriated, it is anticipated that approximately $18 million will become available to support this program and that two awards will be made in fiscal year 1991.

Terms and Conditions of Support

Applicant States are required to provide the physical facilities and maintenance of those facilities for the campus demonstrations. No award funds may be used for these purposes. In addition, applicant States are required to contribute non-Federal funds equal to at least 20 percent of the total costs of the demonstration projects. The budget section of the application should indicate the source from which such funds will be obtained.

Funds may be used for expenses clearly related and necessary to carry out the described project, including both direct costs that can be specifically identified with the project and allowable indirect costs. Funds cannot be used to supplant current funding for existing activities. Funds also may be used only for those programs which are part of the approved and funded application.

Recipients must agree to the role of OTI and NIDA staff as described in this announcement and to required participation in the evaluation.

Allowable items of expenditure for which support may be requested include:

- Salaries, wages, and fringe benefits of professional and other supporting staff engaged in project activities
- Travel directly related to carrying out activities under the approved project
- Supplies and communications directly related to approved project activities
- Contracts for performance of activities under the approved project
- Alterations and renovations (A&R)

Cost for A&R of facilities will be allowable where necessary for carrying out treatment objectives. These costs cannot exceed the lesser of $150,000 or 25 percent of the total funds to be awarded for direct costs in a 3-year period. In addition, the maximum amount of Public Health Services (PHS) funds that may be spent for any single A&R project is $150,000. Construction costs are not allowable.

- Other items necessary to support project activities

Reimbursements from third parties should be treated as program income in accordance with 45 CFR part 92. Where it is legal to do so, treatment providers are required to bill third parties for treatment provided on the campus and to use third-party reimbursements. Half of such reimbursements shall be used to offset the amount of Federal funds required for the campus and the other half shall be used to enrich and/or expand services on the campus.

Treatment which is not part of the proposed program or directly related to it, such as non-routine medical or dental care, may not be paid from grant funds. Applicants should indicate plans for obtaining such treatment and how it will be supported. Such non-routine treatment might include trauma treatment; acute coronary care; maternal care, including delivery; etc. However, these services may be paid for using the grantee's 50 percent share of the third party reimbursements.

Reimbursements for costs incurred during the first year of campus operations will be made on an actual cost basis. Costs will be reimbursed on this basis for the first year only, in recognition of the fact that start-up costs will be high relative to normal operating costs, and that individual programs are likely to be operating at less than their projected capacity. In addition, costs for the establishment and operations of the central intake, assessment and referral unit will be reimbursed on an actual cost basis throughout the duration of the demonstration. However, applicants (and providers) must agree to accept reimbursement for treatment services on a "per diem" or per-patient-per-day cost basis after the first year of operation (see section F. Resources and Budget). Beginning in the second year of operations, applicants (and treatment providers) will be reimbursed on a per-patient-per-day basis, adjusted according to the actual number of patient days of services rendered, and should expect that operation at less than budgeted capacity will result in a reduction in overall reimbursements or a shifting of resources among providers.

Funds may be used only for those programs which were approved in the funded application. Funds may not be re-budgeted among programs without the written approval of the OTI Grants Management Officer.

Recipients will be responsible for assuring that any subcontracts are made by competent contractual agreements, as appropriate under State and local law, and as approved by the Grants Management Officer.

Each component will be expected to reach its projected and budgeted operating capacity by the sixth month after the start of operations.

Cooperative agreements will be subject to the Department of Health and Human Services' generic requirements concerning the administration of grants, as set forth at 45 CFR parts 74 and 92.

Cooperative agreements must be administered in accordance with the *PHS Grants Policy Statement* (Rev. January 1, 1987).

Progress reports will be required from awardees in accord with Public Health Service Policy requirements.

Confidentiality

"Confidentiality of Alcohol and Drug Abuse Patient Records Regulations" (42 CFR part 2) are applicable to any information about alcohol and other drug abuse patients obtained by a "program" (42 CFR 2.11), if the program is Federally assisted in any manner (42 CFR 2.12b). This means that all project patient records are confidential and may be disclosed and used only in accordance with 42 CFR part 2.

Protection of Human Subjects

Although this is not a research program per se, projects will involve human subjects and the random assignments of these subjects; therefore, an assurance must be obtained. For further information on the applicability of the regulations (45 CFR part 46) for the protection of human subjects contact:

Assurance Staff, Division of Compliance, Office for Protection of Research Risks, National Institutes of Health, Bethesda, Maryland 20892, Telephone: (301) 496-7041.

Legislative Authority

Awards for cooperative agreements for campus drug abuse treatment demonstration projects will be made under the authority of section 509G(b) of the Public Health Service Act.

Further Information

Questions concerning program issues may be directed to:

Walter Faggett, M.D., Chief, Community Assistance Branch, Office for treatment Improvement, ADAMHA, Rockwall II Building, 10th Floor, 5600 Fisher Lane, Rockville, MD 20857, A.C. 301, 443-8802.

Questions concerning grants management issues may be directed to:

Joseph Weeda, Grants Management Branch, NIAAA, 5600 Fisher Lane, Room 16-86, Rockville, MD 20857, A.C. 301, 443-4703.

Other

The reporting requirements contained in this announcement are covered under the Paperwork Reduction Act of 1980, Public Law 96-511, OMB Approval Number 0937-0189.

The Catalog of Federal Domestic Assistance number for this program is pending.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-18460 Filed 8-7-90; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee: Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the NCVHS Executive Subcommittee established pursuant to 42 U.S.C. 242k, section 306(k)(2), of the Public Health Service Act, as amended, announces the following meeting.

Name: NCVHS Executive Subcommittee.

Time and date: 5 p.m.-10 p.m., August 22, 1990; 9 a.m.-5 p.m., August 23, 1990; 9 a.m.-12 noon, August 24, 1990.

Place: Bavarian Inn, Shepherdstown, West Virginia 25443.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to review the activity of the full committee, the appointment of new members, the subcommittees' Work Plans, and to plan for the upcoming November 7-9, 1990, NCVHS meeting.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number (301) 436-7050.

Dated: August 2, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-18517 Filed 8-7-90; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 90P-0218]

Canned Fruit Cocktail Deviating From the Standard of Identity; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Sierra Quality Canners to market test a product designated as "fruit cocktail without cherries" that deviates from the U.S. standard of identity for fruit cocktail (21 CFR 145.135). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Sierra Quality Canners, 426 North Seventh St., Sacramento, CA 95814.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standards of identity for canned fruit cocktail in 21 CFR 145.135 in that the product does not contain any cherries. The standard of identity for canned fruit cocktail requires either light sweet cherries or cherries artificially colored red (typically with FD&C Red No. 3) to be present in the amount of 2 to 6 percent by weight in the finished food. The product meets all requirements of the standards with the exception of this deviation. The purpose of this deviation is to permit a market study of the consumer acceptability of an alternative produce to the standardized fruit cocktail, whereby the test product does not contain any cherries that are artificially colored red. FDA recently revoked the provisionally listed uses of FD&C Red No. 3 (February 1, 1990; 55 FR 3516). At that time, FDA also announced its intent to publish a notice of proposed rulemaking to revoke the permanently listed uses of the color. The permanently listed uses of FD&C Red No. 3 include its use to color the cherries which are used in fruit cocktail. Light sweet cherries, the other alternative permitted by the present standard for fruit cocktail, are generally not used in fruit cocktail because of the overall cost they would impart on the finished product and the lack of desirable organoleptic or visual attributes, specifically the intensity of the red color.

For the purpose of this permit, the name of the product is "fruit cocktail without cherries." The permit provides for the temporary marketing of a total of 9.5 million pounds of fruit cocktail. The test product will be produced and packaged at Sierra Quality Canners, 426 North Seventh St., Sacramento, CA 95814, and will be distributed throughout the continental United States.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than November 6, 1990.

Dated: July 31, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-18506 Filed 8-7-90; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Phenylbutazone

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of phenylbutazone, a nonsteroidal anti-inflammatory drug.

Two-year toxicology and carcinogenesis studies were conducted by administering 0, 50, or 100 mg/kg phenylbutazone in corn oil by gavage to groups of 50 rats of each sex, 5 days per week for 103 weeks. The doses administered to groups of 50 mice of each sex on the same schedule were 0, 150, or 300 mg/kg.

Under the conditions of these 2-year studies, there was equivocal evidence of carcinogenic activity [1] of

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study")

phenylbutazone for male F344/N rats, as shown by the occurrence of small number of renal tubular cell adenomas and carcinomas. There was some evidence of carcinogenic activity for female F344/N rats, as shown primarily by the occurrence of two rare renal transitional cell carcinomas in the top dose group; none has ever been seen in vehicle control or untreated control female rats. Tubular cell adenomas may have been associated with the administration of phenylbutazone to female rats. There was some evidence of carcinogenic activity for male B6C3F1 mice, as shown by the increased incidence of hepatocellular adenomas or carcinomas (combined). There was no evidence of carcinogenic activity for female B6C3F1 mice administered phenylbutazone in corn oil at doses of 150 or 300 mg/kg.

The study scientist for these studies is Dr. F. W. Kari. Questions or comments about this Technical Report should be directed to Dr. Kari at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-2926.

Copies of Toxicology and Carcinogenesis Studies of Phenylbutazone in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 367) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: August 2, 1990.

David P. Rall,

Director.

[FR Doc. 90-18538 Filed 8-7-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Vinyl Toluene (Mixed Isomers)

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of vinyl toluene (mixed isomers), used as a monomer in the plastics and surface-coating industries.

Two-year toxicology and carcinogenesis studies were conducted by exposing groups of 50 rats of each sex to 0, 100, or 300 ppm vinyl toluene by inhalation, 6 hours per day, 5 days per week for 103 weeks. Groups of 50 mice of each sex were exposed to 0, 10, or 25 ppm on the same schedule.

Under the conditions of these 2-year inhalation studies, there was no evidence of carcinogenic activity[1] for male or female F344/N rats exposed to 100 or 300 ppm vinyl toluene and no evidence of carcinogenic activity for male or female B6C3F1 mice exposed to 10 or 25 ppm.

The study scientist for these studies is Dr. Gary Boorman. Questions or comments about this Technical Report should be directed to Dr. Boorman at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3440.

Copies of Toxicology and Carcinogenesis Studies of Vinyl Toluene (Mixed Isomers) (65%-71% Meta-Isomer and 32%-35% Para-Isomers in F344/N Rats and B6C3F1 Mice (Inhalation Studies) (TR 375) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: August 2, 1990.

David P. Rall,

Director.

[FR Doc. 90-18539 Filed 8-7-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Vinyl Toluene (Mixed Isomers)

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of vinyl toluene (mixed isomers), used as a monomer in the plastics and surface-coating industries.

Two-year toxicology and carcinogenesis studies were conducted by exposing groups of 50 rats of each sex to 0, 100, or 300 ppm vinyl toluene by inhalation, 6 hours per day, 5 days per week for 103 weeks. Groups of 50 mice of each sex were exposed to 0, 10, or 25 ppm on the same schedule.

Under the conditions of these 2-year inhalation studies, there was no evidence of carcinogenic activity[1] for male or female F344/N rats exposed to 100 or 300 ppm vinyl toluene and no evidence of carcinogenic activity for male or female B6C3F1 mice exposed to 10 or 25 ppm.

The study scientist for these studies is Dr. Gary Boorman. Questions or comments about this Technical Report should be directed to Dr. Boorman at P. O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3440.

Copies of Toxicology and Carcinogenesis Studies of Vinyl Toluene (Mixed Isomers) (65%-71% Meta-Isomer and 32%-35% Para-Isomers in F344/N Rats and B6C3F1 Mice (Inhalation Studies) (TR 375) are available without charge from the NTP Public Information Office, MD B2-04, P. O. Box 12233, Research Triangle Park, NC 27709.

Dated: August 2, 1990.

David P. Rall,

Director.

[FR Doc. 90-18540 Filed 8-7-90; 8:45 am]

BILLING CODE 4140-01-M

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU-67137]

Invitation To Participate in Coal Exploration Program Consolidation Coal Co.

Consolidation Coal Company is inviting all qualified parties to participate in its proposed exploration of certain Federal coal deposits in the following described lands in Carbon County, Utah:

T. 12 S., R. 6 E., SLM, Utah,
Sec. 34, all;
Sec. 35, all.
T. 13 S., R. 6 E., SLM, Utah,
Sec. 2, all;
Sec. 3, all;
Sec. 10, lots 1, 2, NE¼, E½NW¼;
Sec. 11, N½, N½S½.
Containing 3,351.00 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, Utah State Office, P.O. 45155, Salt Lake City, Utah 84145-0155 and to Randy Stockdale, Consolidation Coal Company, 2 Inverness Drive East, Englewood, Colorado 80112. Such written notice must be received within thirty days after publication of this notice in the **Federal Register.**

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must

share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Consolidation Coal Company, is available for public review during normal business hours in the BLM office, (Public Room, Fourth Floor), 324 South State Street, Salt Lake City, Utah under Serial Number UTU-67137.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-18516 Filed 8-7-90; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 751176.

Applicant: Thomas Davies, Dove Canyon, CA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captiveherd maintained by Mr. Van Der Meulen, Alicedale, South Africa, for the purpose of enhancement of survival of the species.

PRT 751148.

Applicant: Andrew Caridis, San Carlos, CA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captiveherd maintained by Mr. H.V.Z. Kock, Merriman, South Africa, for the purpose of enhancement of survival of the species.

PRT 751024.

Applicant: Cincinnati Zoo, Cincinnati, OH.

The applicant requests a permit to import one pair of captive born southern pudus (*Puda puda*) from Zoologischer Garten Wuppertal, Wuppertal, West Germany, for purposes of captive breeding and zoological display.

PRT 751023.

Applicant: Jack Donaldson, Findlay, OH.

The applicant requests a permit to import one pair of captive-hatched Cabot's tragopan pheasants (*Tragopan caboti*) from Mr. Glen Howe of Ontario, Canada, for the purpose of captive breeding.

PRT 751181.

Applicant: Duke University Primate Center, Durham, NC.

The applicant requests a permit to import the following species: one male and three female aye-aye (*Daubentonia madagascariensis*): two male and two female diademed sifaka (*Propithecus diadema diadema*); one male and one female golden-crown sifaka (*Propithecus tattersalli*); two male and two female golden bamboo lemurs (*Hapalemur aureus*); and two female red-bellied lemurs (*Lemur rubiventer*) from Madagascar, for the purpose of enhancement of propagation and survival of the species through captive breeding. The animals are to be removed from the wild.

PRT 750790.

Applicant: Gary Johnson, Perris, CA.

The applicant requests a permit to purchase one female Asian elephant (*Elephas maximus*), "Duchess", from International Animal Exchange, Inc., Ferndale, Michigan, for educational displays and captive breeding purposes.

PRT 749232.

Applicant: Harris Q. Jones, Jr., Ft. Meyers, Florida.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-bred herd maintained by M.J. Dalton, P.O. Box 400, Bredasdorp, 7280 Cape Province, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT 750959.

Applicant: William E. Trebilcock, West Des Moines, Iowa.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-bred herd maintained by Mr. D. Parker, Elandsberg Farms, Constantia, South Africa, for the purpose of enhancement of the survival of the species.

PRT 750115.

Applicant: San Diego Zoo, San Diego, CA.

The applicant requests a permit to import two male and three female captive-born yellow-footed rock wallabies (*Petrogale Exanthopus*) from the Adelaide Zoological Gardens, Adelaide, Australia for the purpose of captive propagation.

PRT 751606.

Applicant: Jackie Fiske, Erie, PA.

The applicant requests a permit to import a sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by F. Thornkloof, P.O. Box 442, Grahamstown, South Africa for the purpose of enhancement of the survival of the species.

PRT 750793.

Applicant: Gary Johnson, Perris, CA.

The applicant requests a permit to purchase one female Asian elephant (*Elephas maximus*), "Bubbles", from International Animal Exchange, Inc., Ferndale, Michigan, for educational displays and captive breeding purposes. The elephant is currently maintained at the International Wildlife Park, Grand Prairie, Texas, and was originally imported from Thailand.

PRT 751251.

Applicant: Honolulu Zoo, Honolulu, HI.

The applicant requests a permit to import one female Asian elephant (*Elephas maximus*) from the Arignar Anna Zoological Park, India, for display and captive breeding purposes. The elephant was born at the Theni Division elephant camp on December 24, 1985, and would be sent to Honolulu Zoo in exchange for one pair of giraffes.

PRT 751456.

Applicant: Los Angeles Zoo, Los Angeles, CA.

The applicant requests a permit to import one female marbled cat (*Felis marmorata*) on breeding loan from Parco Funistico "La Torbiera", Italy, for captive breeding purposes. The cat was born in captivity in Rome, Italy.

PRT 751455.

Applicant: Los Angeles Zoo, Los Angeles, CA.

The applicant requests a permit to import one male and two female marbled cats (*Felis marmorata*) from Howlett's Zoo, Kent, Great Britain, for captive breeding purposes. The male cat was originally confiscated from poachers in Thailand and sent to Italy, and subsequently sent to Howlett's Zoo. One female was born in captivity in Italy and sent to Howlett's and the other was born at the Los Angeles Zoo and sent to Howlett's.

PRT 751375.

Applicant: Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to import two male and three female

captive born tigers (*Panthera tigris*) from Germany. The tigers were born to applicant's tigers while performing abroad and will be imported for captive breeding and display purposes. In the future, applicant may export and reimport these tigers for purpose of display.

PRT 750996.

Applicant: International Animal Exchange, Inc., Ferndale, MI.

The applicant requests a permit to import one pair of captive born cheetahs (*Acinonyx jubatus*) from the Wassenaar Wildlife Breeding Centre, Holland, for resale to the Binder Park Zoo, Battle Creek, Michigan. Binder Park Zoo intends to use the cheetahs in educational displays and for breeding purposes.

PRT 750922.

Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import three pairs of captive hatched Bali mynahs (*Leucopsar rothschildi*) from the Jersey Wildlife Preservation Trust, Channel Islands, for captive breeding purposes, in accordance with the guidelines established by the American Association of Zoological Parks and Aquariums Bali Mynah Species Survival Plan.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 430, 4401 N. Fairfax Dr., Arlington, VA 22201, or by writing to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, VA 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: August 4, 1990.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-18573 Filed 8-7-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523-1407.

Date Submitted: July 26, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0520.

Type of Submission: Extension.

Title: Information Collection Elements in the A.I.D. Acquistion Regulations (AIDAR).

Purpose: A.I.D. is authorized to make contracts with any corporation, international organization, or other body of persons whether within or without the United States in furtherance of the purposes and within the limitations of the Foreign Assistance Act (FAA).

Information collections and recordkeeping requirements placed on the public by the A.I.D. Acquisition Regulation (AIDAR), are published as 48 CFR 7. These are all A.I.D. unique procurement requirements which have not otherwise been submitted to OMB for approval. The preaward requirements are based on a need for prudent management in the determination that an offeror either has or can obtain the ability to competently manage development assistance programs utilizing public funds. The requirements for information during the post-award period are based on the need to administer public funds prudently.

Respondents will have a submission burden of three responses and an estimated annual recordkeeping burden of 12 hours per recordkeeper.

Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: July 26, 1990.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 90-18471 Filed 8-7-90; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-312]

In the Matter of Certain Dynamic Random Access Memories, Static Random Access Memories, Components Thereof, and Products Containing Same; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Hyundai Electronics Industries Co., Ltd. and Hyundai Electronics America, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 31, 1990.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either

accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

Issued: July 31, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-18509 Filed 8-7-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 483]

Railroad Revenue Adequacy; 1988 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On August 7, 1990, the Commission served a decision announcing final 1988 revenue adequacy determinations for the Nation's Class I railroads. Two carriers (Florida East Coast and Norfolk Southern) are found to be revenue adequate. Two carriers (Burlington Northern and Chicago & North Western), which were found to be tentatively revenue adequate in *Railroad Revenue Adequacy—1988 Determination*, 6 I.C.C.2d 163 (1989), are now found to be revenue inadequate. The remaining carriers are also found to be revenue inadequate.

DATES: This decision shall be effective on August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489. (TDD for hearing impaired: (202) 275-1721.)

SUPPLEMENTARY INFORMATION: This is the annual determination of railroad revenue adequacy made in accordance with the standards developed in Ex Parte 393, *Standards for Railroad Revenue Adequacy*, 364 I.C.C. 803 (1981), as modified in Ex Parte 393 (Sub No. 1), *Standards for Railroad Revenue Adequacy*, 3 I.C.C.2d 261 (1986), and Ex Parte 393 (Sub No. 2), *Supplemental Reporting of Consolidated Information for Revenue Adequacy Purposes*, 5 I.C.C.2d 65 (1988). This decision applies the rate of return standard to data for the year 1988.

Broadly, a railroad will be considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment at least equal to the current cost of capital for the railroad industry. In applying this standard, the Commission has made several adjustments to its procedures for computing return on investment (ROI) that will be used in making the revenue adequacy determinations for 1988 and subsequent years. Specifically these adjustments involve: (1) Valuation of the operating property of certain railroads whose assets have been written down incident to mergers and reorganizations, as its acquisition cost (instead of predecessor cost); (2) inclusion of special charges as operating expenses in the calculation of net railway operating income (NROI); (3) exclusion from NROI calculations of the costs associated with antitrust settlements; (4) disallowance of current deferred income tax debits as an offset to long-term accumulated deferred income tax credits; and (5) adjustment for those railroads that implemented Financial Accounting Standards Board (FASB) Statement of Accounting Standards No. 96, *Accounting for Income Taxes* (FAS 96), of beginning of year accumulated deferred income tax credits reported under Accounting Principles Board Decision No. 11 (APB 11) to conform to the procedures promulgated in FAS 96.

Additional information is contained in a concurrent decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

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

Decided: July 30, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-18544 Filed 8-7-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31709]

Dumaines and Arthur T. Walker Estate Corp.; Continuance in Control Exemption; Red Bank Railroad Co.; Exemption

Dumaines and Arthur T. Walker Estate Corporation (Walker) have filed a notice of exemption to continue to control Red Bank Railroad Company (Red Bank). Walker owns 100 percent of the stock of Pittsburg & Shawmut Railroad Company (P&S) and 50 percent of the stock of Buffalo and Pittsburg Railroad, Inc. (B&P).[1] B&P, in turn, controls Clearfield and Mahoning Railway Company (C&M) and Allegheny & Western Railway Company (A&W). P&S, B&P, C&M, and A&W are non-connecting Class III railroads.

Dumaines, which owns 100 percent of Walker, also owns a controlling interest in Amoskeag Company, which, in turn, through a subsidiary, owns 100 percent of the voting stock of Bangor and Aroostook Railroad Company (BAR), a non-connecting class II railroad.

Red Bank was formed by Dumaines and Walker to operate approximately 12.5 miles of rail line in Clarion County, PA, that is being purchased from Consolidated Rail Corporation by Shannon Transport, Inc.[2]

Dumaines and Walker indicate that: (1) Red Bank, BAR, P&S, B&P, C&M, and A&W will not connect with each other; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other; and (3) the transaction does not involve a Class I carrier. Accordingly, this transaction involves the continuance in control of a non-connecting carrier and comes within the class exemption in 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

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 automatically stay the transaction. Pleadings must be filed with the Commission and served on: William P. Quinn, Rubin Quinn Moss Heaney & Patterson, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

Decided: July 23, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-18541 Filed 8-7-90; 8:45 am]

BILLING CODE 7035-01-M

[1] Walker controls B&P jointly with Genesee & Wyoming Industries, Inc. *See* Finance Docket No. 31117, *Genesee & Wyoming Industries, Inc., the Arthur T. Walker Estate Corporation and Dumoines and Buffalo & Pittsburgh Railroad, Inc.—Exemption Control* (not printed), served December 28, 1987.

[2] A notice of exemption for Shannon to acquire and for Red Bank to operate the lines was filed in Finance Docket No. 31707, *Shannon Transport, Inc., and Red Bank Railroad Company—Acquisition and Operation Exemption—Consolidated Rail Corporation.*

[Finance Docket Nos. 31472 and 31485]

Indiana Rail Road Co., Petition for Exemption, Acquisition and Operation, Illinois Central Railroad Co., Line Between Sullivan, IN, and Brown, IL; Trackage Rights Exemption; Illinois Central Railroad Co. and Indiana Hi-Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission reverses the initial decision in these proceedings, served June 1, 1990, by Chief Administrative Law Judge Paul S. Cross. By reversing the initial decision, the Commission exempts the Indiana Rail Road Company (IRRC) from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, for its acquisition in Finance Docket No. 31472 of 90.3 miles of rail line from the Illinois Central Railroad Company (IC), between Sullivan, IN (milepost 109.0), and Newton, IL (milepost 155.0) and between Newton, IL (milepost 160), and Browns, IL (milepost 204.3). As a condition to granting this exemption, we impose the employee protective conditions in *New York Dock Ry.—Control—Brooklyn East. Dist.*, 360 I.C.C. 60 (1979). The Commission also reverses the ALJ's decision to revoke the related trackage rights exemption in Finance Docket No. 31485, published at 54 FR 43872 (1989). These trackage rights will become effective on the consummation date of the proposed transaction.

DATES: The acquisition exemption will be effective on August 22, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. (TDD for hearing impaired: (202) 275-1721)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359 (DC metropolitan area). (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: July 30, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett. Commissioner Simmons was absent and did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-18542 Filed 8-7-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31701 (Sub-No. 1)]

Milford-Bennington Railroad Co., Inc., Modified Rail Certificate

On June 21, 1990, Milford-Bennington Railroad Company, Inc. (MBRR) filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150.23.[1] The line involved was authorized for abandonment in Docket No. AB-32 (Sub-No. 32), *Boston & Maine Corp.—Aband. in Hillsborough Co., N.H.* (not printed), served March 18, 1986. It was subsequently acquired by the State of New Hampshire (State).

On July 6, 1989, MBRR entered into a 5-year renewable lease with the State under which MBRR would rehabilitate and operate the line between Wilton (MP N-16.36) and Bennington, NH (MP W-62.00), a distance of 18.6 miles.[2] MBRR is currently rehabilitating the line and intends to interline with the Springfield Terminal Railway either at MP N-16.36 (Wilton) of at MP N-10.78 (Milford) upon consummation of its related feeder line applications.[3]

This notice involves the lease of property, which is defined by the regulations of the Advisory Council on Historic Preservation as potentially having an adverse effect on properties. To ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470 (NHPA), MBRR is directed to preserve intact all sites and structures more than 50 years old until compliance with the requirements of NHPA is achieved.

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: August 2, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-18543 Filed 8-7-90; 8:45 am]

BILLING CODE 7035-01-M

[1] The Railway Labor Executives' Association and the United Transportation Union seek the imposition of employee protective conditions. In *Common Carrier Status of States, State Agencies*, 363 ICC 132, 135 (1980), *aff'd Simmons* v. *ICC*, 697 F.2d 326, 334-342 (DC Cir. 1982), we stated the modified certificate operators will not be subject to employee protective conditions. Rail employees were granted employee protection when we approved abandonment of the line.

[2] The leased line is one continuous line between MP N-16.36 and MP N-32.36 and between MP W-59.39 and MP W-62.00. MP N-32.36 and MP W-59.39 are the same point near Elmwood, NH.

[3] MBRR has simultaneously filed, in Finance Docket No. 31701, a feeder line application under 49 U.S.C. 10910 to acquire a 5.5-mile connecting line between MP N-16.36 and MP N-10.78 from the Boston and Maine Corporation.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with Departmental policy, 8 CFR 50.7, notice is hereby given that on July 20, 1990 and July 26, 1990, two proposed consent decrees (the Syntex consent decree and the NEPACCO consent decree, respectively) in *United States* v. *Russell Martin Bliss et al.*, Civil Action No. 84-200C(1) (consolidated) (the *Missouri Dioxin Litigation*), were lodged with the United States District Court for the Eastern District of Missouri. The proposed consent decrees resolve claims in the *Missouri Dioxin Litigation* by the United States under sections 106 and 107 of the comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9606, 9607, and section 7003 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6973, (RCRA), against 1) Syntex Corporation and its subsidiaries, Syntex Laboratories, Inc., Syntex (U.S.A.) Inc. and Syntex Agribusiness, Inc. (the Syntex defendants), and 2) Northeastern Pharmaceutical and Chemical Company, Inc. and its past president and vice-president, Edwin Michaels and John Lee (the NEPACCO defendants), arising out of the release of dioxin at a number of sites in eastern Missouri.

The Syntex consent decree provides for a comprehensive mixed-work cleanup by the United States, the State of Missouri and the Syntex defendants of dioxin contamination at those eastern Missouri sites, including the Times Beach Site. The Syntex defendants will reimburse the Hazardous Response Trust Fund (the Superfund) $10 million, in annual installments of $2 million. In addition the Syntex defendants will underwrite and be responsible for the complete remediation of the Times Beach Site and the incineration of dioxin-contaminated soil from both that site and the other 27 dioxin-contaminated sites in *United States* v. *Bliss*.
In addition, the State will reimburse the United States for 10 percent of the Federal Government's total share of the remediation costs, or approximately $4 million.

Pursuant to the NEPACCO decree, the NEPACCO defendants will provide 1) $2,500 to the Superfund and 2) $200,000 to the Department of Interior (Interior) for ongoing studies of potential natural resource damages, the acquisition and management of mitigation lands and other activities related to the release of dioxin in Missouri.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 0530, and should refer to *The Missouri Dioxin Litigation*, D.J. Ref. 90-11-2-41.

The proposed consent decrees may be examined at the office of the United States Attorney for the Eastern District of Missouri 414 U.S. Court & Custom House, 1114 Market Street, St. Louis Missouri 63101; the Region VII Office of the United States Environmental Protection Agency, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Enforcement Section Document Center, 1333 F Street NW., Suite 600, Washington, DC 20004, (202) 347-789. A copy of the proposed consent decrees may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $421.00 for the Syntex decree and $6.75 for the NEPACCO decree (25 cents per page reproduction cost; reproduction cost for the Syntex decree maybe higher than 25 cents per page because the Syntex work plans include 104 maps) payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-18468 Filed 8-7-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on July 27, 1990, a proposed consent decree in *United States* v. *USX Corporation*, Civil Action No. H88-558, was lodged with the United States District Court for the Northern District of Indiana. The proposed consent decree resolves a judicial enforcement action brought by the United States against USX Corporation for violations of the Clean Water Act at its Gary Works steel plant located in Gary, Indiana.

The proposed consent decree requires USX to perform a compliance program for the Gary Works, to perform a sediment remediation program on a portion of the Grand Calumet River, and to pay a civil penalty. The compliance program requires USX to perform corrective actions and undertake wastewater management practices at the Gary Works for the Coke Plant, the Blast Furnace and Sinter Plant, and the Steelmaking and Finishing Mill. In addition, the compliance program requires USX to implement a visible oil monitoring and corrective action program, install and operate monitoring stations at sampling locations where the current sampling points are unrepresentative of the discharge, and to conduct a variety of other monitoring programs. In addition to these provisions, the compliance program the consent decree establishes waste load allocation effluent limitations for the discharge from outfall 002, 005, 007 and 010 and an effluent limitation for the discharge from outfall 034. The Grand Calumet sediment remediation program requires USX to perform a sediment characterization study and to perform actual sediment remediation of a portion of the Grand Calumet River. The consent decree requires USX to perform a sediment characterization study from upstream of the Gary Works downstream to the Indiana Harbour Canal. The consent decree requires that USX perform actual sediment remediation for that portion of the river from upstream of the Gary Works downstream to the Gary Sanitary District discharge outfall. USX is required to develop and implement a remediation plan for this portion of the river. The consent decree requires that USX expend $7.5 million on the Grand Calumet sediment remediation program, with at least $5.0 million expended on actual remediation of the sediments in the river. The civil penalty USX is required to pay to the United States is $1,600,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *USX Corporation* D.J. 90-5-1-1-3111.

The proposed consent decree may be examined at the office of United States Attorney, 507 State Street, Hammond, Indiana, and at the Office of Regional Counsel, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., Suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In reqesting a copy, please enclose a check in the amount of $16.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-18570 Filed 8-7-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, and section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given that a proposed Consent Decree in *United States* v. *Yount, et al.*, has been lodged with the United States District Court for the Northern District of Indiana on July 20, 1990. The complaint filed by the United States alleged that defendants are liable to perform a cleanup of a hazardous waste site known as the Marion (Bragg) Dump in Marion, Indiana, at which there has been actual or threatened releases of hazardous substances. The complaint also alleges that defendants are liable for the costs incurred by the United States related to the site.

The proposed Consent Decree requires the eight defendants to finance and perform a cleanup of the site and to reimburse the United States Environmental Protection Agency and the State of Indiana for oversight costs they will expend related to the site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Yount, et al.*, D.J. Ref. 90-11-3-251.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Northern District of Indiana, 3128 Federal Building, 1300 South Harrison Street, Fort Wayne, Indiana 46802. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW.,

Suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $18.00 (25 cents per page reproduction costs for a copy of the Consent Decree) or $30.75 (25 cents per page reproduction costs for a copy of the Decree with all Appendices) payable to "Consent Decree Library." In requesting a copy, please refer to the referenced case name and D.J. Ref. number.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-18571 Filed 8-7-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Automotive Emissions Cooperative Research Venture

Notice is hereby given that, on June 28, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the automotive emissions cooperative research venture (known as the Auto/Oil Air Quality Improvement Research Program) filed a written notification simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the membership of the Auto/Oil Air Quality Improvement Research Program. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plantiffs to actual damages under specified circumstances.

Specifically, the notification stated that the following additional party has become an associate member of the Auto/Oil Air Quality Improvement Research Program: UOP, 25 East Algonquin Road, Des Plaines, IL 60017-5017.

No other changes have been made in either the membership or the planned activities of the Auto/Oil Air Quality Improvement Research Program.

On October 16, 1989, the Auto/Oil Air Quality Improvement Research Program filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 29, 1989 (54 FR 49122).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-18466 Filed 8-7-90; 8:45 am]

BILLING CODE 4410-01-M

The Development of a Computer-Aided Armor Design/Analysis System, Southwest Research Institute

Notice is hereby given that, on June 26, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group research project regarding "The Development of a Computer-Aided Armor Design-Analysis System." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that Aluminum Company of America (effective May 7, 1990) has become a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project.

On June 26, 1989, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 20, 1989, 54 FR 30481. On August 7, 1989, November 1, 1989, and April 19, 1990, SwRI filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on August 31, 1989 (54 FR 36066), November 30, 1989 (54 FR 49368), and May 21, 1990 (55 FR 20862) respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-18467 Filed 8-7-90; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power and Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation, et. al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environment Assessment

Identification of Proposed Action

The proposed amendment would revise the Technical Specifications (TS) to accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for those TS surveillances which will expire prior to the currently scheduled 13R refueling outage.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated May 4, 1990.

The Need for the Proposed Action

The proposed changes to the Technical Specifications are needed so that surveillance requirements for certain systems and equipment be extended to accommodate a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of each of the proposed revisions to the Technical Specifications. The proposed revisions would accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for those technical surveillances which will expire prior to the current scheduled 13R refueling outage. Oyster Creek is presently on a 20-month refueling cycle.

Based on its review, the Commission concludes that each of the proposed Technical Specification changes are acceptable.

Therefore, the staff has determined that the proposed Technical Specifications do not alter any initial conditions assumed for the design basis accidents previously evaluated nor do they change operation of safety systems utilized to mitigate them. Therefore, the proposed changes (1) Do not involve a significant increase in the probability or consequences of any accident previously evaluated, (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated, and (3) do not involve a significant reduction in the margin of safety.

Therefore, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes

that these proposed actions would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve several components in the plant which are located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 15, 1990 (55 FR 22977). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed actions, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement (FES) for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated May 4, 1990, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555 and the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 31st day of July, 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate 1-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-18510 Filed 8-7-90; 8:45 am]

BILLING CODE 7590-01-M

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 July 14, 1990 through July 27, 1990. The last biweekly notice was published on July 25, 1990 (55 FR 30290.)

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 September 7, 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.

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 amendments request: February 28, 1990, as supplemented May 8, 1990

Description of amendments request: The proposed amendment would revise the Technical Specifications (TS) Section 3.7.1.2 to clarify and expand the service water pump operability requirements during various plant operational conditions, thereby reflecting the plant design in a clearer manner. A change to the Bases Section 3/4.7.1 would also be made reflecting the proposed change. The February 28, 1990, submittal required at least two operable nuclear service water pumps per site while in Operational Condition 4 or 5. This proposed change was previously noticed on May 2, 1990 (55 FR 18410). The revised May 8, 1990, submittal increased the required number of operable nuclear service water pumps per site from two to three when the units are in Operational Condition 4 or 5.

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 proposed changes and has determined that the

requested amendments do not involve a significant hazards consideration for the following reasons:

1. The proposed change allows the use of the present plant design and capabilities to ensure that an adequate supply of water is available for cooling to the diesel generators and other vital equipment. The proposed change requires both the nuclear and the conventional headers to be operable with two nuclear and two conventional service water pumps capable of supplying the headers when the unit is in OPERATIONAL CONDITIONS [SIC] 1, 2, or 3. This change results in four nuclear service water pumps operable whenever both units are at power. These expanded requirements fulfill single failure criteria and will ensure the availability of service water for diesel generator cooling during the initial ten minute period of a design basis accident (DBA) and provide for sufficient service water capability for the post-ten minute period of a DBA. When the unit is in OPERATIONAL CONDITIONS [SIC] 4 or 5 [SIC] the number of required pumps drops to any combination of two nuclear and/or conventional service water pumps, provided that there are at least three operable nuclear service water pumps per site. Maintaining two operable service water pumps (nuclear and/or conventional) on the Unit while in OPERATIONAL CONDITIONS [SIC] 4 or 5 assures long-term cooling can be supplied, even after application of the single failure criteria. Stipulating at least three operable nuclear service water pumps per site assures diesel generator cooling will be available following any DBA, regardless of which Unit suffers the accident/transient.

The allowed out of service times and compensatory measures established in the revised Action Statements are consistent with those of the existing Technical Specification 3.7.1.2. Based on this reasoning, the Company has determined that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The service water system is designed to provide lubrication and cooling of equipment during normal operations and under accident conditions. The system can also be cross-connected to the RHR system during emergencies to provide core flooding capabilities. The service water system aids in mitigation of an accident, but does not act as an initiator of an accident sequence. The proposed change does not affect the ability of the service water system to perform its intended function. The requested amendment will assure that the service water system will be available to provide an adequate supply of cooling water for both normal and emergency operation. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change clarifies and expands the service water pump operability requirements to better reflect plant design. These expanded requirements will ensure the availability of service water for diesel generator cooling during the initial ten minute period of a DBA and provide for sufficient service water capability for the post-ten minute period of a DBA. The proposed change will provide a higher level of assurance of service water system availability for both normal operations and accident conditions. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendments meet the three standards in 10 CFR 50.92 and, therefore, involve 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 amendments do 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

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: July 9, 1990

Description of amendment request: The amendment will provide consistency with the overtime work limits promulgated by Generic Letter 82-12. The amendment also renumbers subsequent items within Technical Specification Section 6.2.3, as appropriate.

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 proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

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 analyzed because this change provides administrative controls and thus has no effect on the probability or consequences of any accident previously evaluated. The change is intended to minimize fatigue among the operating staff and accident mitigation may, in fact, be enhanced.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because this is an administrative change which does not present the possibility of any new or different kind of accident from those previously evaluated.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety because this is an administrative change which may actually enhance the margin of safety by enhancing operator alertness and attentiveness.

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: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

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

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: July 16, 1990

Description of amendments request: Commonwealth Edison Company, the licensee, submitted an application to amend the Technical Specifications for the Quad Cities Nuclear Power Station, Units 1 and 2. This application would change the Technical Specifications to reflect a High Pressure Codlant Injection (HPCI) area fire protection modification which replaces spot-type heat detectors with a linear heat detector.

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 considerations using the Commission's standards.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. A fire protection system is installed in the High Pressure Coolant Injection (HPCI) system in order to minimize the damage to the HPCI system due to a fire. The HPCI system is an Emergency Core Cooling System (ECCS) and a reliable fire protection system is essential to maintain the availability of HPCI.

The replacement fire protection system utilizes linear heat detectors which provide better coverage than the spot heat detectors currently in use. The linear heat detectors will be placed at the existing heat detector location as well as in between the existing detectors. Since the 190° F setpoint for the fire protection system remains unchanged, the added coverage of the existing system has the potential to detect a fire more quickly, thereby decreasing the consequences of the fire.

In addition, the linear heat detector construction provides more reliable performance in that it is less susceptible to undetected damage. The detection of damage to the fire protection system is essential to maintain system performance and to assure system actuation in the event of a fire.

The probability of a fire is not changed by the modification of the fire protection system.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility of a new or different kind of accident is not created by the modification since no new or different modes of operation are introduced. The design is intended to detect a fire in the area and to actuate the sprinkler system which extinguishes the fire. This design intent is met by the replacement system.

3. The proposed change does not involve a significant reduction in the margin of safety.

The margin of safety is slightly increased by the proposed replacement system. While the actuation temperature remains unchanged, the replacement system encompasses the location of the existing detectors as well as the areas between the detectors, thereby, potentially increasing the response time. In addition, the monitoring system coupled with the detector design provides a more reliable system to detect damage, thereby assuring better fire protection system and availability of the HPCI system.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Jacob F. Wechselberger.

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: February 7, 1990, as supplemented May 7, 1990

Description of amendment request: The proposed amendments will (1) incorporate programmatic controls in the Administrative Controls section of the Technical Specifications (TSs) that satisfy the requirements of 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a and Appendix I to 10 CFR Part 50, (2) relocate the existing procedural details in current specifications involving radioactive effluent monitoring instrumentation, the control of liquid and gaseous effluents, equipment requirements for liquid and gaseous effluents, radiological environmental monitoring, and radiological reporting details from the TSs to Chapter 16 of the Final Safety Analysis Report (FSAR), "Selected Licensee Commitment (SLC) Manual," (3) relocate the definition of solidification and existing procedural details in the current specification on solid radioactive wastes to the SLC Manual, (4) simplify the associated reporting requirements, (5) simplify the administrative controls for changes to the Offsite Dose Calculation Manual (ODCM) and Process Control Program (PCP), (6) add record retention requirements for changes to the ODCM and PCP, and (7) update the definitions of the ODCM and PCP consistent with these changes. These TS changes were submitted in response to NRC Generic Letter 89-01, which provided guidance for the relocation of the Radiological Effluent Technical Specifications (RETS) as part of the line-item TS improvement program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. 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 regard to the proposed amendments, the licensee provided an evaluation of the proposed changes with respect to these three standards:

1. The proposed changes are administrative in nature since the existing RETS requirements are maintained and merely relocated to the Catawba SLC Manual, which is controlled as part of the Catawba FSAR. Any future changes to this information would be evaluated in accordance with the process described in 10 CFR 50.59. Under 10 CFR 50.59, changes may be made without prior Commission approval if the licensee has determined that an unreviewed safety question is not involved. A report of such changes is required to be submitted to the Commission annually.

No hardware changes or additions will be made to the Catawba Nuclear Station as a result of these proposed amendments. There would be no increase in the types or amounts of radioactive effluent releases, nor an increase in individual or cumulative occupational radiation exposures as a result of these changes. As such, these changes will not involve an increase in the probability or consequences of any accident previously evaluated.

2. As stated above, the proposed changes are administrative in nature and involve no changes in RETS requirements, hardware modifications or increases in radioactive effluent releases or personnel occupational exposure. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

3. The existing RETS requirements will be maintained as part of the Catawba SLC Manual and will continue to provide adequate controls for radioactive effluent

releases and for radiological environmental monitoring activities. As such, the proposed amendments would not involve a significant reduction in a margin of safety.

The Commission's staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards for determining the existence of a significant hazards consideration.

On this basis, the Commission proposes to determine that the proposed amendments 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: June 7, 1990

Description of amendment request: The proposed amendments would revise Technical Specification 3/4.6.5.1, "Ice Condenser Containment Systems," to reduce the weight of ice required to be maintained in the ice baskets of the containment ice condenser. Specifically, the total minimum ice weight would be reduced from 2,466,420 pounds to 2,099,790 pounds, and the minimum weight for each basket would be reduced from 1269 pounds to 1081 pounds. The reduced values would also be reflected in associated TS Basis 3/4.6.5.1. The Basis would also be changed to correct an error in the amount of the conservative allowance (1.1% rather than 1%) provided to account for systematic error in the weighing instruments.

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 application of June 7, 1990, included results of a reanalysis of the containment pressure following a design basis loss of coolant accident (LOCA). Except for the reduced ice weight, other parameters and assumptions used in the reanalysis (including the allowance for sublimation throughout a surveillance interval, and the allowance for instrument uncertainty when weighing ice) remained unchanged from the containment analysis in Final Safety Analysis Report (FSAR) Section 6.2.1.1.3.1. The calculated peak containment pressure increased from 12.4 psig to 14.1 psig, which is within the maximum allowable value of 14.8 psig specified by TS 3/4.6.1.1 for performing Type A containment integrated leak rate tests per Appendix J of 10 CFR Part 50, and within the containment design pressure of 15.0 psig.

The Commission's staff has performed a preliminary review of the licensee's request and its supporting reanalysis. The Commission's staff finds that the proposed changes would not increase the probability of an accident previously evaluated. The ice condenser system functions only to mitigate an accident (a LOCA or high energy line break inside containment). Moreover, it has no role in the operation of the reactor coolant system and cannot cause an accident. Similarly, the changes could not create the possibility of a new or different kind of accident from any accident previously evaluated because accident causal mechanisms are unaffected, including the creation of new or different ones. The changes also would not involve a significant increase in the consequences of an accident previously evaluated or involve a significant reduction in a margin of safety. As noted above, the licensee's reanalysis demonstrates that while various parameters are affected (e.g., peak pressure is increased), they remain within bounding values and the containment with its ice condenser would satisfactorily perform its design function in the event of a design basis LOCA.

Accordingly, the Commission proposes to determine that the proposed amendments involve 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

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: July 13, 1990

Description of amendment request: The proposed amendments would delete a portion of the surveillance requirements of Technical Specification (TS) 4.5.2.d regarding periodic verification that the suction isolation valves of the Residual Heat Removal (ND) System automatically close on a Reactor Coolant System signal less than or equal to 560 psig. Issuance of these amendments will authorize removal of the ND Autoclosure Interlock (ACI) circuitry.

Basis for proposed no significant hazards consideration determination: The Commission and industry have recognized the safety benefits of removing the ACI circuitry from the ND System. The Commission's case study on long term decay heat removal, Case Study Report AEOD/C503, "Decay Heat Removal Problems at U.S. Pressurized Water Reactors," December 1985, recommended that consideration be given to removal of the ACI circuitry to mimimize loss of decay heat removal events. Also, a study performed for the Commission by Brookhaven National Laboratory, NUREG/CR-5015, "Improved Reliability of Residual Heat Removal Capability in PWRs as Related to Resolution of Generic Issue 99," May 1988, listed several improvements to reduce the risk of loss of decay heat removal. One improvement was the removal of the ACI circuitry from ND Systems.

In parallel with the Commission's activities, the Westinghouse Owners Group evaluated the removal of the ACI circuitry on Westinghouse designed plants and issued WCAP-11736, "Residual Heat Removal System Autoclosure Interlock Deletion Report for the Westinghouse Owners Group," Volumes 1 and 2, Revision 0.0, February 1988. WCAP-11736 documents the probabilistic analysis performed on the removal of the ACI circuitry in terms of (1) the likelihood of an interfacing LOCA, (2) ND System availability, and (3) low temperature over-pressurization concerns. The results show that (1) the frequency of an interfacing system LOCA decreases with the removal of the ACI circuitry from the ND System, (2) removal of the ACI increases ND System availability, and (3) removal of the ACI from the ND System has no effect on heat input transients, but will result in a small, but not significant,

increase in the frequency of occurrence for some types of mass input transients with a decrease in others. The net effect of ACI deletion from the ND System is a net improvement in safety. WCAP-11736 also indicated that ACI removal should be accompanied by certain specific improvements, including the addition of an alarm for each of the two ND suction valves which will actuate if the valve is open and ND system pressure is high. The licensee's application of July 13, 1990 provides analyses to demonstrate that the conclusions of WCAP-11736 are valid for McGuire Units 1 and 2 and describes how the improvements identified by WCAP-11736 will be implemented at McGuire.

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 Commission's staff has performed a preliminary review of the licensee's application with its supporting analysis, and the documents discussed above. The Commission's staff finds that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of any accident previously evaluated because, as demonstrated by these analyses and previous documents, adequate overpressure protection of the ND System will exist through alarms and existing relief valves. Further, the probability of a loss of decay heat removal through a closure of the ND System isolation valves will have been significantly reduced.

(2) Create the possibility of a new or different kind of accident from any previously evaluated because the Commission has previously determined, and the licensee has confirmed for McGuire, that the probability of an interfacing LOCA will have been significantly reduced by the proposed change.

(3) Involve a significant reduction in a margin of safety because, as discussed above, removal of the ACI from the ND System provides a significant improvement in the availability of the ND System and a net improvement in safety.

Accordingly, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: July 6, 1990

Description of amendment request: The proposed amendment would revise the Arkansas Nuclear One, Unit 2 Technical Specification 3.4.2 to include a note which would allow both pressurizer code safety valves to be removed during Mode 5. This would allow the licensee to conduct testing and/or maintenance with both valves removed provided that overpressure protection is at least equivalent to that of the existing specification.

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 licensee stated that the changes do not involve a significant hazards consideration for the following reasons:

(1) Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change involves the operability requirements of a plant accident mitigation feature (overpressure protection) and therefore does not involve an increase in the probability of [occurrence] of an accident previously evaluated. The proposed change maintains equivalent overpressure protection, and therefore does not involve an increase in the consequences of previously evaluated accidents.

(2) Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change allows equivalent overpressure protection to be credited during a certain operational condition, and has no effect on any accident precursors, and therefore does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does Not Involve a Significant Reduction in the Margin of Safety.

As the proposed change will require overpressure protection at least equivalent to that of the existing specification, the margin of safety will not be reduced.

The NRC staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposes to determine that the requested 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: Richard F. Dudley, Acting

GPU Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2, (TMI-2), Dauphin County, Pennsylvania

Date of amendment request: June 30, 1989, superseded January 22, 1990

Description of amendment request: The proposed amendment would revise TMI-2 Operating License No. DPR-72 by modifying the Appendix A Technical Specifications Section 6.5.3, "Audits." The proposed changes revise the administrative requirements associated with periodic audits of unit activities. The original request dated June 30, 1989, was superseded by the January 22, 1990, submittal based on a meeting between the NRC staff and licensee on October 1, 1989.

The licensee's proposal would make audits applicable to specific facility modes and the audit frequency, in some cases, would be reduced to reflect the current and future condition of the facility.

Section 6.5.3, "Audits," specifies audits for eleven facility activities. The license proposes to revise seven of the activities to be applicable during Modes 1, 2 and 3. The current Technical Specification does not specify the applicability of the activity audits to specific modes and by implication applies to all modes.

At the time the licensee submitted the proposed change, the facility was in Mode 1. The licensee transitioned to Mode 3 on April 27, 1990. Therefore, for the seven activities that reference applicability during Modes 1, 2 and 3 there is effectively no change in applicability.

Section 6.5.3.1.e specifies the audit frequency for the Emergency Plan implementing procedures. Currently an audit must be conducted at least once per 12 months irrespective of facility Mode. The licensee proposes that the requirement be applicable only during Mode 1. Since the licensee is currently in Mode 3, the request essentially deletes the requirement from the TMI-2 Technical Specifications for an audit of the Emergency Plan. TMI-1 and TMI-2 have had a combined site Emergency Plan since February 10, 1986. The requirement for an audit of the Emergency Plan is contained in Section 6.5.3., Audits, of the TMI-1 Technical Specifications. Section 6.5.3.1.e. of the TMI-1 Technical Specifications requires an audit at least once per 12 months which is consistent with the current TMI-2 Technical Specifications.

Section 6.5.3.1.f of the TMI-2 Technical Specifications requires that the audit frequency of the Security Plan and implementing procedures be conducted at least once per 12 months. The licensee proposes to delete the TMI-2 Technical Specifications requirement for an audit of the security plan and implementing procedures. The TMI site has a combined site Security Plan and implementing procedures. The current TMI-1 Technical Specifications Section 6.5.3.1.f requires an audit of the TMI site Security Plan and implementing procedures every 12 months. The audits will include a review of TMI-2 facilities and personnel to the extent necessary to determine compliance.

Section 6.5.3.1.b specifies the audit frequency for performance, training, and qualifications of the unit staff (Training and Qualifications Audit). The current Technical Specifications specify an audit frequency of at least once per 12 months. The licensee proposes changing the frequency to once per 24 months. The licensee states that with the completion of the defueling program and the significant cutback in cleanup activity at the TMI-2 site, the frequency for performing the Training and Qualifications Audits can be extended.

Section 6.5.3.1.c specifies the audit frequency for verification of the nonconformances and corrective actions program (Corrective Actions Audit) that affect nuclear safety. The current requirement is that an audit be conducted at least once per 12 months. The licensee proposed in their January 22, 1990 submittal to change the frequency to once per 24 months. After discussions between the NRC staff and the licensee on July 18 and 19, 1990, the licensee has agreed to recind their request and continue to perform corrective actions audits once every 12 months. Therefore, there would be no change to Section 6.5.3.1.c.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequnces 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.

TMI-2 is currently in a post-accident, defueled, long-term cleanup mode. The licensee completed defueling the facility in March 1990 and is conducting residual fuel measurements, final decontainment and readying the plant for long-term storage. Greater than 99 percent of the fuel contained in the reactor vessel has been removed. The staff has determined in previous license amendments that the potential accidents analyzed for TMI-2 in the current cleanup-mode are bounded in scope and severity by the range of accidents originally analyzed in the facility FSAR. The change proposed by the licensee is a change to the Appendix A Technical Specifications revising the administrative requirements associated with periodic audits of unit activities.

The proposed change does not significantly increase the probability or consequences of an accident previously evaluated because no changes are proposed to current safety systems or setpoints. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because no new modes of operation or new equipment are being introduced. The proposed change modifies the audit requirements of the facility and as such does not affect the potential or severity of an accident at TMI-2. The proposed change does not involve a significant reduction in a margin of safety, because the facility has been defueled and the possibility of a criticality is precluded.

Based on the above considerations, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601 Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: July 19, 1990

Description of amendment request: Technical Specifications Table 3.6.3-1 has been proposed for amendment in order to revise the requirement to perform a 10 CFR Part 50, Appendix J, leak rate test using air on Emergency Core Cooling System and Reactor Core Isolation Cooling System suppression pool isolation valves. A hydrostatic test would be performed in lieu of the air test.

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 evaluated the proposed amendment against the standards provided above and has supplied the following information:

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 would revise the Appendix J test from an air test to a hydrostatic test for the affected valves which will result in tests that more closely reflect leakage that would be expected post-accident. The hydrostatic test will assure isolation valve leak tight integrity is maintained. This change to Appendix J testing methods does not impact plant design or operation of plant systems. The subject valves will continue to isolate as designed. Therefore the proposed amendment does not involve a 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.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes introduce no new mode of plant operation nor do they require physical modification to the plant.

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.

A hydrostatic test will be performed in lieu of an air test to determine local leak rate. The proposed change will not affect the existing Technical Specification operational limits. The subject containment isolation valves will be required to meet present Technical Specification leak rate criteria for hydrostatically tested valves assuring leak-tight integrity. Therefore the proposed amendment 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: 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: June 29, 1990

Description of amendment request: The proposed amendment would change Millstone Unit 3 Technical Specification (TS) 4.4.8, "Specific Activity," to allow reactor startup without prior determination of E-bar (a measurement of the specific activity of all isotopes in the reactor coolant that have half lives greater than 10 minutes).

Basis for proposed no significant hazards consideration determination: Technical Specification 4.4.8 requires the licensee to measure E-bar at least every 6 months. This surveillance requirement further states that the measurement must take place after a minimum of 2 effective full power days and 20 days of power operation. An additional provision, TS 4.0.4, applies to TS 4.4.8 and requires that, "... Entry into an OPERATIONAL MODE or other specified condition shall not be made unless the Surveillance Requirement(s) associated with the Limiting Condition for Operation has been performed within the stated surveillance interval or as otherwise specified."

In the event that the licensee has not performed the required surveillance during the stated surveillance interval, the combination of TS 4.4.8 and 4.0.4 would preclude reactor startup since E-bar must be determined after operation at full power (TS 4.4.8), while full power operation is precluded since a required surveillance has not been performed (TS 4.0.4). This situation occurred at Millstone Unit 3 in that, on January 18, 1990, the licensee discovered that the surveillance that requires E-bar be measured once every 6 months per Technical Specification Section 4.4.8 had not been met. On January 18, 1990, the licensee requested NRC Enforcement Discretion regarding the requirements of Specification 4.0.4 to allow start-up of Millstone Unit No. 3 from Mode 3 in order to take a reactor coolant sample to satisfy the requirement for the E-bar determination. The NRC subsequently granted relief from Technical Specification 4.0.4, regarding completion of surveillance requirements per Section 4.4.8 prior to plant start-up. This relief permitted restart of Millstone Unit No. 3 to allow taking a reactor coolant sample to satisfy the E-bar determination.

The proposed change to TS 4.4.8 would add a statement that TS 4.0.4 is not applicable to the E-bar determination. Thus, should the E-bar determination not be made within the required interval, startup of Millstone Unit 3 would be permitted. The NRC staff understands that the E-bar determination would be made, subsequently, at the earliest permitted time.

Title 10 CFR Part 50, Section 50.92 contains standards for determining whether a proposed license amendment involves significant hazards consideration. In this regard, the licensee states in their June 29, 1990 application that, the proposed change 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.

The proposed change to the E-bar surveillance addresses a situation that would prevent entrance into MODE 1. Sampling can only be performed at power as stated in the footnote. An exception to Specification 4.0.4 is necessary to allow changing from MODE 2 to MODE 1. This does not change the allowable reactor coolant radioactivity limit and, therefore, does not affect the radiological calculations and will still ensure that the off-site dose following a steam generator tube rupture will not exceed a small fraction of 10 CFR 100 limits. It does not reduce the frequency requirements for analysis of reactor coolant for gross activity, and therefore it does not decrease the confidence that the reactor coolant activity is within the specification. For these reasons, the proposed change does not increase the probability or consequences of any accident previously analyzed.

2. Create the possibility of a new or different kind of accident from that previously analyzed.

The proposed change to the E-bar surveillance requirement alleviates a situation that would prevent entry into MODE 1. There are no changes in the way the plant is operated or in the operation of equipment credited in the design basis accidents. Therefore, the potential for an unanalyzed accident is not created.

3. Involve a significant reduction in the margin of safety.

The intent of the Technical Specification for the proposed change remains unchanged. The proposed change will not impact any protective boundary and does not affect the consequences of an accident previously analyzed. Therefore, there is no reduction in the margin of safety.

The NRC staff has reviewed, and concurs in, the licensee's statement regarding significant hazards consideration associated with the June 29, 1990 application. Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames 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: June 28, 1990

Description of amendment request: The proposed amendment to the Technical Specifications is to provide the operability requirements, surveillance requirements and the basis for the Hydrogen Purge System. Although this system was in the design of the Fort Calhoun Station and required to be functional for emergency operating procedures, there were no Technical Specification requirements for its

testing. This oversight was indicated to the licensee by the NRC staff. As a result of this oversight, the licensee has taken action to assure further the functionality of the purge system by requesting this amendment.

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:

The proposed amendment to the Technical Specifications does not involve a significant hazards consideration because operation of Fort Calhoun Station Unit 1 in accordance with this amendment would not:

(1) Involve a significant increase in the probability of occurrence or consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report. The proposed surveillance tests will be conducted during refueling operations, in accordance with approved procedures, to verify input assumptions and equipment operation assumed in the safety analysis report remain valid and the hydrogen purge system is considered operable. The limiting conditions of operation ensure the ability of the hydrogen purge system to meet the requirements of 10CFR50.44 and 10CFR100. Therefore, the proposed change does not increase the probability or consequences of an accident or malfunction of equipment important to safety.

(2) Create the possibility for an accident or malfunction of a new or different type than previously evaluated in the safety analysis report. The proposed change does not physically alter the configuration of the plant and no new or different mode of operation has been implemented. Therefore, the possibility of an accident of a new or different type than previously evaluated in the safety analysis report is not created.

(3) Involve a significant reduction in the margin of safety as defined in the basis for any Technical Specification. The proposed change maintains the basis of the safety analysis. In addition, the surveillance tests will serve to verify that the margin of safety for the hydrogen purge system is maintained. Therefore, the margin of safety as defined in the basis for the Technical Specifications is not reduced.

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: Richard F. Dudley, Acting

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: June 12, 1990

Description of amendment request: The amendment reflects the addition of four primary containment isolation valves in the Residual Heat Removal and Core Spray keep full systems. These same four valves are added to the table for exception to Type C tests since the minimum flow discharge lines associated with these keep-full systems are discharged into the suppression pool below the water line.

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 evaluated the proposed amendment against the standards provided above and has supplied the following information:

Operation of the James A. FitzPatrick Nuclear Power Plant in accordance with this proposed amendment would not involve a significant hazards consideration, as defined in 10 CFR 50.92, since the proposed changes would not:

1. Involve a significant increase in the probability of an accident or consequence previously evaluated. The RHR and Core Spray keep-full systems maintain their discharge piping full of water, thereby increasing the overall reliability and reducing the potential for water hammer. The RHR system is designed to mitigate the consequences of analyzed accidents and is normally in the standby mode. The Core Spray system is designed to protect the core by spraying water over the fuel assemblies to remove decay heat following the postulated design basis LOCA. These systems cannot initiate accidents and the proposed changes have no effect on the probability of occurrence of previously evaluated accidents. The applicable criteria, equipment quality standards, and design considerations have been satisfied for both RHR and Core Spray keep-full systems.

2. Create the possibility of a new or different kind of accident from those previously evaluated because the keep-full systems will not cause either the RHR or the Core Spray systems to fail as a result of inadvertent actuations or the failure to operate on demand.

3. Involve a significant reduction in the margin of safety as defined in the basis for Technical Specifications. The RHR and Core Spray keep-full systems will not adversely affect any of the modes of operation of the RHR System (as defined in the FSAR Section 4.8) and the Core Spray System (as defined in FSAR Section 6.4.3). These modifications will not invalidate any assumptions in the FitzPatrick Appendix R Fire Protection Analysis.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the staff's 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: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: June 21, 1990

Description of amendment request: The proposed amendment reduces the Residual Heat Removal (RHR) pump flow rate surveillance acceptance criteria from the present 9900 gpm to 8910 gpm. The proposed change would allow more accurate and repeatable inservice testing by eliminating problems inherent in testing the pumps near runout flow conditions. The proposed change also removes an out-of-date 14 day LCO approved for cycle 9 by Amendment 153.

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 evaluated the proposed amendment against the standards provided above and has determined that operation of the James A. FitzPatrick Nuclear Power Plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The LPCI mode of the RHR system is designed to mitigate the consequences of analyzed accidents and is normally in the standby mode. This system cannot initiate accidents and the proposed change has no effect on the probability of occurrence of previously evaluated accidents.

The effect of a reduction of the RHR pump flow rates has been fully analyzed. These analyses demonstrate that the consequences of postulated accidents remains well within the acceptable limits established in the FitzPatrick Final Safety Analysis Report (FSAR) and applicable NRC regulations. The 88° F expected increase in peak clad temperature is not significant with respect to the existing 600° F margin to the 2200° F acceptance criteria.

The proposed change, which deletes the temporary 14-day LCO conditions, eliminates extraneous and out-of-date information from the technical specifications. This change is an editorial change and cannot impact the capability of the emergency core cooling systems or the containment cooling mode of RHR.

2. Create the possibility of a new or different kind of accident from those previously evaluated. The proposed changes, reduction in the RHR flow rate and the editorial change to delete the temporary 14-day LCO, do not involve hardware changes and the results of these changes have been fully analyzed. No actions taken as a result of the proposed changes can initiate a new or different kind of accident from those previously analyzed.

3. Involve a significant reduction in the margin of safety. The effect of a 10% reduction in the RHR pump flow rate has been fully analyzed, with the result that the effect on all design considerations has been shown to be acceptable. Although the calculated fuel PCT has increased by 88° F, this is not significant with respect to the 600° F margin to the ECCS acceptance criteria of 2200° F.

The proposed change, which deletes the temporary 14-day LCO conditions, eliminates extraneous and out-of-date information from the technical specifications. This change is an editorial change and has no impact in the margin of safety.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the staff's 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: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: July 26, 1990

Description of amendment request: The proposed change to Indian Point 3 Technical Specification 5.3.A.1 permits the replacement, for Cycle 8 operation only, of two fuel rods located in assembly T53 with two stainless steel filler rods. The reconstituted fuel assembly will be located in the core center, location HO8.

A Basis section has been added to address the Commission's requirement that the Departure from Nucleate Boiling Ratio (DNBR) for the reconstituted fuel assembly be conservatively determined by assuming the stainless steel replacement rods are operating at the highest power in the reconstituted assembly.

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 evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes regarding the replacement of fuel rods with stainless steel filler rods in a fuel assembly will not adversely affect plant system operations, functions or setpoints. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The acceptability of replacing fuel rods with stainless steel filler rods will be justified by a cycle-specific reload evaluation using an NRC approved methodology to ensure that the existing safety criteria and design limits are met. The reload evaluation will address the effect of the actual reconstitution on core performance parameters, peaking factors, and core average linear heat rate to ensure that the existing safety criteria and design limits are met, and original fuel assembly design criteria are satisfied.

As part of the cycle specific Reload Safety Evaluation (RSE) process to be performed by Westinghouse, the impact of the reconstituted assembly on the departure form nucleate boiling (DNB) will be evaluated. Westinghouse will determine the DNB ratio (DNBR) for the reconstituted assembly by assuring the filler rods are operating at the highest power in the reconstituted fuel assembly. Utilizing this extremely conservative assumption, the predicted DNBR for the filler rods will be shown to satisfy the minimum DNBR acceptance limit. This approach is consistent with the methodology Westinghouse utilizes to evaluate reloads, as described in the NRC approved topical report WCAP-9273A. The results of the DNBR evaluation will be documented in the Indian Point 3 RSE for Cycle 8.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes regarding the replacement of fuel rods with stainless steel filler rods in a fuel assembly will not adversely affect plant system operations, functions or setpoints. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The acceptability of replacing fuel rods with stainless steel filler rods will be justified by a cycle-specific reload evaluation using an NRC approved methodology to ensure that the existing safety criteria and design limits are met. The reload evaluation will address the effect of the actual reconstitution on core performance parameters, peaking factors, and core average linear heat rate to ensure that the existing safety criteria and design limits are met, and original fuel assembly design criteria are satisfied.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes regarding the replacement of fuel rods with stainless steel filler rods in a fuel assembly will not adversely affect plant system operations, functions or setpoints. The proposed change does not involve a significant reduction in a margin of safety. The acceptability of replacing fuel rods with stainless steel filler rods will be justified by a cycle-specific reload evaluation using an NRC approved methodology to ensure that the existing safety criteria and design limits are met. The reload evaluation will address the effect of the actual reconstitution on core performance parameters, peaking factors, and core average linear heat rate to ensure that the existing safety criteria and design limits are met, and original fuel assembly design criteria are satisfied.

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: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: May 18, 1990, as supplemented by letter dated July 9, 1990

Description of amendment request: By License Amendment Request No. 90-001, the licensee has proposed to modify the Technical Specifications (Appendix A to Operating License No. NPF-87) for the Comanche Peak Steam Electric Station, Unit 1. The changes would revise the setpoints in Tables 2.2-1 and 3.3-3 to: (1) permit use of an analog panel front-installed meter for calibration of High and Low Setpoints for Power Range Neutron Flux meters and (2) correct a bias in the Steam Generator Water Level Low-Low and High-High setpoints.

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. As required by 10 CFR 50.91(a), the licensee has provided the following analysis that addressed the above three standards in the amendment application.

TU Electric has evaluated the no significant hazards considerations involved with the proposed changes by focusing on the three standards set forth in 10 CFR 50.92(c) as discussed below:

Does the proposed change:

A. Involve a significant increase in the probability or consequences of any accident previously evaluated?

The proposed changes only affect the nominal setpoint or the terms used to evaluate the operability of a channel as provided in the CPSES-1 Technical Specifications. Through the use of nominal setpoints which include adequate instrument uncertainties, the accident analysis assumptions are preserved; therefore, there is no effect on the consequences of any accident previously evaluated. In addition, because the steam generator water level operating band is extended to its current analytical limit, the probability of an unnecessary plant transient is decreased.

B. Create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not degrade nor negate any of the reactor protection system safety functions. No change is made to the plant which could create a new or different kind of accident.

C. Involve a significant reduction in the margin of safety, as defined by the Bases of the Technical Specifications?

Through the use of nominal setpoints, controlled through the plant Technical Specifications, which include adequate instrument uncertainties, the accident analysis assumptions are preserved; therefore, there is no significant effect on any margin of safety as defined by the bases of the Technical Specifications.

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: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, 1615 L Street, NW., Suite 1000, Washington, DC 20036

NRC Project Director: Christopher I. Grimes

Tennessee Valley Authority, Docket No. 50-260 Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of amendment request: May 24, 1990 (TS 287)

Description of amendment request: The Browns Ferry (Unit 2) Technical Specifications (TS) are being revised as follows: (1) Delete references to the function "Instrument Channel-Reactor Low Pressure" from Tables 3.2.B and 4.2.B and (2) incorporate revised functional testing and calibration frequencies for replacement pressure switches PS-68-93 and 94 in Table 4.2.A.

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). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. 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. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The existing non-class IE pressure switches (2-PS-68-93 and 94) are being replaced by class IE pressure switches to resolve the problems of inadequate pressure switch accuracy and excessive drift. The existing pressure switches contain two internal microswitches (SW No. 1, SW No. 2) whereas the replacement pressure switches contain one internal microswitch. As a result, the function of SW No. 1, which is to provide a low pressure permissive signal to the isolation logic for RHR valves 2-FCV-74-53 and 2-FCV-74-67, is being deleted from Tables 3.2.B and 4.2.B by this change. This function is redundant to the limit switches on RHR valves 2-FCV-74-47 and 2-FCV-74-48. As such, it is not required nor was it considered in the FSAR analysis. Changes are also being made to Table 4.2.A to reflect the revised functional testing and calibration requirements for the new pressure switches.

No new failure modes have been identified for the proposed changes. Misoperation of the replacement pressure switches could not cause the initiation of any accident

previously evaluated in plant Safety Analysis Report (SAR). Further, the replacement pressure switches do not require relocation, do not adversely affect system function or operations, and do not adversely affect other systems or components. Therefore, this change will not significantly increase the probability of occurrence or consequences of any accident previously evaluated in the SAR.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed. The function and operation of the affected systems are not changed by the amendment. Seismic qualification of the affected components remain intact due to this modification and other systems will not be adversely affected. Operation and failure modes of the replacement switches can cause no different effects than the existing switches. Thus, the credible failure modes of the replacement pressure switches would be bounded by existing FSAR Section 14.6.3.3.2 accident analysis. Therefore, this modification will not create the possibility of an accident of a different type than any previously evaluated in the SAR.

3. The proposed change does not involve a significant reduction in a margin of safety. This change replaces the existing non-Class IE pressure switches with Class IE pressure switches which are more accurate.

In addition, one of the two contracts from each pressure switch will be removed from the current valve control logic. This contact was redundant to other logic which controls these valves and is not required for proper operation of any logic required for Technical Specification compliance.

The margin of safety defined by the bases for Technical Specifications 3.2.A/4.2.A (Primary Containment and Reactor Building Isolation Functions) and 3.2.B/4.2.B (Core and Containment Cooling - Initiation & Control) is not reduced by this modification. This modification results in increased instrument accuracy and a reduction of failure modes caused by the deletion of redundant contacts.

The staff has reviewed the licensee's analysis of no significant hazards consideration and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that this TS amendment application does not involve significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: June 26, 1990

Description of amendment request: The proposed changes would revise the NA-1&2 Technical Specifications (TS) and Facility Operating License Nos. NPF-4 and NPF-7 for NA-1&2, respectively. Specifically, the proposed changes would add the NRC standard fire protection license condition to each unit's operating license, and relocate fire protection requirements from the TS to the NA-1&2 Updated Final Safety Analysis Report (UFSAR). The proposed changes have been developed in accordance with the guidance contained in NRC Generic Letters 86-10 and 88-12, and are consistent with NRC and industry efforts to simplify the TS.

The proposed changes include the following actions: (1) add the NRC standard fire protection license condition to each unit's operating license (License Condition 2.D(3)t for NA-1 and 2.C.(23) for NA-2, (2) remove fire protection requirements from the TS, and (3) remove the TS Bases sections relating to fire protection.

UFSAR Section 16.2 was created to contain the fire protection requirements currently contained in the TS. Information contained in the TS Bases is now included in UFSAR Section 9.5.1. No changes have been made to the technical content by this administrative relocation, per the requirements of Generic Letter 88-12.

Compliance with the fire protection requirements will be assured by maintaining these requirements in appropriate plant procedures and the UFSAR. This change offers additional flexibility in updating and maintaining the fire protection program. The proposed changes relocate the requirements from the TS to the UFSAR.

The proposed TS changes implement the requirements of Generic Letter 88-10 and 88-12. Sections of the UFSAR have been updated to reflect the fire protection program, and station administrative procedures are being revised. Fire protection program requirements remain an integral part of station operations regardless of where they are located.

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 has evaluated the proposed change request against the standards provided above and has determined that these changes will not:

(1) [i]nvolve a significant increase in the probability or consequences of an accident previously evaluated. The requirements for the fire protection program have not been changed by [these] proposed change[s]. Relocation of these requirements into the UFSAR and plant procedures does not negate or diminish any portion of the fire protection program. Therefore, the same conditions exist as before the change[s] and there is no significant increase in the probability or consequences of an accident previously evaluated.

(2) [c]reate the possibility of a new or different kind of accident from any accident previously evaluated. The requirements for the fire protection program have not been changed by the proposed change[s]. No new or modified requirements have been introduced. Therefore, the same conditions exist as before the change[s] and the possibility for a new or different kind or accident from any evaluated has not been created.

(3) [i]nvolve a significant reduction in the margin of safety. Implementation of the requirements of the fire protection program is assured by UFSAR requirements and plant procedures. Since the program remains the same and is implemented the same, there is no reduction in the margin of safety.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed changes and agrees with the licensee's conclusion that the three standards in 10 CFR 50.92(c) are met. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: June 26, 1990

Description of amendment requests: The proposed Technical Specification (TS) changes will delete TS 3.15, "Containment Vacuum System" and its associated bases. Containment vacuum is still required by TS 3.8 to be maintained consistent with initial conditions assumed in the accident analyses. For clarification, the time

requirements for the reactor to be brought to the hot shutdown or cold shutdown condition have been specified in the Technical Specification 3.8.B. Finally, the containment vacuum system section of the Updated Final Safety Analysis Report (UFSAR) has been added to the list of references in the bases section of 3.8.B.

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 has reviewed the proposed changes against the criteria of 10 CFR 50.92 and has concluded that the request does not involve significant hazards considerations in that it would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. During design basis accident conditions, the Containment Vacuum System is isolated and is not used to depressurize the containment. As described in the the safety evaluation in the UFSAR, the Containment Vacuum System will not be required to operate for several months after a [Loss of Coolant Accident (LOCA)] to maintain containment subatmospheric to prevent uncontrolled releases. Deletion of the Containment Vacuum System technical specification has no effect on any failure mechanism which could lead to a [LOCA]. Adequate initial containment vacuum, as assumed in the UFSAR, is assured by Technical Specification 3.8. Containment response will, therefore, be as previously analyzed and consequences will not increase; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change[s] [create] no new failure modes and no change in operation or surveillance is being made. Therefore, no new accident or malfunction scenarios are introduced by the change[s]. As noted above, no accident consequences other than that presently evaluated in the UFSAR are introduced by [these] change[s], nor [do these changes] affect any accident analysis assumption; or

(3) Involve a significant reduction in a margin of safety. Since, as stated above, initial containment vacuum is assured by Technical Specification 3.8, peak containment pressure in a LOCA would be as previously analyzed, and the safety margin is not reduced.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 29, 1990

Description of amendment request: The proposed amendment would revise Condition 2.C.(4) of Facility Operating License DPR-43 to reflect the current titles of the referenced security manuals. The proposed amendment would also revise Technical Specifications (TS) 6.5.1.2, 6.5.3.3, and 6.6.1.b to revise the required members of the Plant Operations Review Committee and revise titles due to the recent organization change. The proposed amendment also includes several revisions that update reference titles, clarify existing specifications and correct typographical errors.

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 addressed these standards as provided in the following discussion.

This proposed amendment corrects inconsistencies and typographical errors, revises personnel title changes, and reflects organizational changes at Wisconsin Public Service Corporation. They would not change the intent of the Technical Specifications or decrease WPSC's management support or involvement in activities at the Kewaunee Plant.

Therefore, the proposed changes pose no significant hazards for the following reasons:

1. The proposed changes will not result in a significant increase in the probability of occurrence or consequences of accident.

2. The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed changes will not involve a significant decrease in the margin of safety.

The proposed changes are also purely administrative changes that are, therefore, not likely to involve a significant hazard.

The Commission's staff has reviewed the licensee's submittal and agrees with the licensee's conclusions for the three standards. Accordingly, the Commission has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P.O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 2, 1990

Description of amendment request: The proposed technical specification change would revise Specification 4.0.2 and its associated Bases to modify the existing surveillance interval extension provisions as provided by Generic Letter 89-14, "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals."

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 following sections discuss the interval extension proposed change under the three standards of 10 CFR 50.92.

Standard 1 - Involves a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change to the surveillance requirement does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change merely is an effort to clarify, simplify, and streamline the specifications in accordance with the guidance provided in Generic Letter 89-14. This change does not appreciably impact the reliability or availability of plant equipment.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change to the surveillance requirement does not create the possibility of a new or different kind of accident from any previously evaluated. The change does not alter the requirements and the method and manner of plant operation are unchanged. It permits an allowable extension of the normal surveillance interval to facilitate surveillance scheduling and consideration of plant operating conditions that may not be suitable for conducting the surveillance.

Standard 3 - Involve a Significant Reduction in the Margin of Safety.

The proposed change to the surveillance requirement does not involve a significant reduction in a margin of safety. The change does not affect any technical specification margin of safety, and it provides clarification for performance of surveillance requirements and will have an overall positive impact on 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 involve a signficant 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: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Christopher I. Grimes

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: June 25, 1990

Description of amendment request: The proposed amendment would simplify Technical Specifications by specifying only the tank level and deleting the redundant gallons values for the Safety Injection Tank (SIT). Also, the "Bases" for Section 3/4.5.4 will be revised to show that the SIT reserve is increased from 40,000 gallons to 52,000 gallons.

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 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:

1. This proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated. The replacement SIT will provide equivalent or better NPSH to the safety injection pumps for all operating conditions. It will also provide an increased water inventory for accident mitigation. The replacement tank will have no affect on the probability or the consequences of any accident previously evaluated.

2. This proposed change would not create the possibility of a new or different kind of accident from any previously evaluated. This change upgrades the minimum water volume of the safety injection water storage tank while maintaining the available NPSH to the pumps equal to or better than the existing tank. The new tank and foundation was load designed for the larger water inventory. This replacement tank will therefore not create the possibility of a new or different kind of accident from any previously evaluated.

3. This proposed change would not involve a significant reduction in a margin of safety. The change in minimum water volume from 117,000 to 129,000 gallons increases the reserve volume after 77,000 gallons required by accident analyses have been injected. The current tank leaves 40,000 gallons, while the new tank will provide 52,000 gallons of reserve water. This increased water volume increases the margin of safety provided by the tank.

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 Acting Project Director: Victor Nerses

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.

Arizona Public Service Company, et al, Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Unit 1, 2 and 3, Maricopa County, Arizona

Date of application for amendment: March 13, 1990

Brief description of amendment: The amendments update the Reactor Vessel Pressure-Temperature (P-T) curves, Low Temperature Overpressure Protection (LTOP) enable temperatures and associated bases, in accordance with the irradiation damage prediction methodology of Revision 2 in Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Materials." The amendments incorporate resultant changes into Technical Specification Sections 3.4.1.3, 3.4.1.4.1, 3.4.8.1, 3.4.8.3, 4.4.8.3.1 and B 3/4.4.8.

Date of issuance: July 25, 1990

Effective date: 45 days from the date of issuance

Amendment Nos.: 52, 38 and 24

Facility Operating License No. NPF-41, NPF-51 and NPF-74: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** June 30, 1990 (55 FR 21959) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 25, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: April 18, 1990

Brief description of amendments: The amendments revise the surveillance internal requirement for the functional testing of the Reactor Protection System Electrical Protection Assemblies to eliminate the potential for unnecessary scrams from power.

Date of issuance: July 25, 1990

Effective date: July 25, 1990

Amendment Nos.: 111 and 107

Provisional and Facility Operating License Nos. DPR-19 and DPR-25. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 13, 1990 (55 FR 24000) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 25, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: November 29, 1988 as supplemented March 15, 1990.

Brief description of amendments: The amendments would revise the LaSalle County Station, Units 1 and 2 Technical Specifications to delete the DC battery system load profiles for each battery and battery chargers. The load profiles can be found in the UFSAR and it is updated annually. The Bases of the Technical Specifications were changed to indicate where the load profile is found.

Date of issuance: July 18, 1990

Effective date: July 18, 1990

Amendment Nos.: 74 and 58.

Facility Operating License Nos. NPF-11 and NPF-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53090) The March 15, 1990 submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 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

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: February 7, 1990, as supplemented April 12, 1990.

Brief description of amendments: The amendments revise TS 5.3.2, "Design Features/Control Rod Assemblies." The revision provides the flexibility to withdraw the inconel clad rod cluster control assembly (RCCA) and replace it with a Westinghouse 17x17 RCCA should unexpected wear be discovered during future inspections.

Date of issuance: July 13, 1990

Effective date: July 13, 1990

Amendment Nos.: 76 & 70

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18411) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 13, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: April 20, 1990

Brief description of amendment: The amendment modified Surveillance Requirement 4.6.1.3 of the Arkansas Nuclear One, Unit 1 Technical Specifications to permit an extension of the next required 18-month diesel generator (DG) inspections. The amendment allowed the inspections to be performed during the next refueling outage, but no later than December 1, 1990.

Date of issuance: July 16, 1990

Effective date: July 16, 1990

Amendment No.: 133

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 30, 1990 (55 FR 21960) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: October 19, 1989

Brief description of amendment: The amendments revised the Technical

Specifications (TS) by changing the TS 3.1.6.3.b limiting condition for operation (LCO) for reactor coolant system leakage. Specifically, the current 1.0 gpm limit on total primary-to-secondary leakage has been changed to an explicit 500 gallons per day (0.347 gpm) limit from any one steam generator. In addition, TS 4.18.4.c.1 has revised to include additional unscheduled inservice inspections whenever leakage occurs in excess of the limit in TS 3.1.6.3.b in lieu of the radioiodine activity limits in the secondary coolant per TS 3.10.

Date of issuance: July 24, 1990

Effective date: 30 days from the date of issuance

Amendment No.: 134

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6101) AP&L's May 22, 1990, supplement provided clarifying information, including correcting typographical errors, and did not change the proposed finding or the action described in, the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of application for amendment: December 15, 1989

Brief description of amendment: The amendment made several administrative changes to the Arkansas Nuclear One, Unit 2 Technical Specifications (TSs) Table 3.6-1. These included correcting the indicated location of a containment isolation valve, and the relabeling of two other containment isolation valves to reflect a design change. The amendment also corrected a TS reference include in Specification 4.5.1.5.2.

Date of issuance: July 18, 1990

Effective date: 30 days from the date of issuance

Amendment No.: 108

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 July 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: May 25, 1990

Brief description of amendments: The amendments revise Technical Specification 4.8.1.1.2h(6)(c) by adding a note that allows the Emergency Diesel Generator high jacket water temperature trip to be bypassed.

Date of issuance: July 10, 1990

Effective date: July 10, 1990

Amendment Nos.: 31 & 11

Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (55 FR 25756 dated June 22, 1990). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by July 23, 1990, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments. The Commission's related evaluation of the amendments and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 10, 1990.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 28, 1989, as supplemented on November 29, 1989

Brief description of amendments: The amendments revised the technical specifications pertaining to the reactor building containment. The revisions incorporate surveillance requirements for sites with two containments as well as include provisions recommended in Regulatory Guide 1.35 (Rev. 3).

Date of issuance: July 19, 1990

Effective date: July 19, 1990

Amendment Nos.: 18 and 8

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 24, 1990 (55 FR 2435). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 19, 1990.

No significant hazards consideration comments received: No.

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

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: January 26, 1990

Description of amendment request: The amendment relocated existing procedural details or specific requirements in the current Technical Specifications (TS) involving radioactive effluent monitoring to the Offsite Dose Calculation Manual, relocated specific requirements in the TS on solid radioactive wastes to the Process Control Program, and incorporated programmatic controls into the Administrative Controls section of the TS.

Date of issuance: July 18, 1990

Effective date: July 18, 1990

Amendment No.: 40

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 13, 1990 (55 FR 24000) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

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 application for amendments: January 27, 1986 and supplemented December 21, 1988

Brief description of amendments: These amendments allow the logic for the reactor coolant pump breaker position trip above permissive P-8 to be

changed from one out of four breakers open to two out of four breakers open. This change removes a potential source of single failure unit trips and provides a reduction in challenges to the reactor protection system.

Date of issuance: June 28, 1990

Effective date: June 28, 1990

Amendment Nos.: 140/127

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 15, 1989 (54 FR 47604). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: November 17, 1989, as amended April 26, 1990

Brief description of amendment: This amendment revises the surveillance requirements for snubbers in Technical Specification 4.7.5 to provide reduced testing and a corresponding reduction in man-rem exposure. This change is consistent with the currently endorsed American Society of Mechanical Engineers standard on snubber testing. This amendment also revises the functional test failure analysis of locked-up snubbers.

Date of issuance: July 13, 1990

Effective date: July 13, 1990

Amendment No.: 19

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1990 (55 FR 937) and renoticed May 30, 1990 (55 FR 21973). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 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.

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station. Unit No. 2. Scriba, New York

Date of application for amendment: July 26, 1989, as supplemented December 14, 1989

Brief description of amendment: This amendment revises the Technical Specifications to allow use of a single-failure-proof handling system to handle and transport loads in excess of 1000 pounds over fuel assemblies in the spent fuel storage pool racks.

Date of issuance: July 17, 1990

Effective date: July 17, 1990

Amendment No.: 20

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1990 (55 FR 936) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 17, 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.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: February 28, 1990, as revised October 2, 1989

Brief description of amendments: These amendments changed the Technical Specifications to correct errors in assumption that the trip logic for the anticipated transients without scram reactor pump trip (ATWS-RPT) was configured as one out of two per trip system instead of the correct logic, which is two out of two per trip system.

Date of issuance: July 3, 1990

Effective date: July 3, 1990

Amendment Nos.: 98 and 66

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6113) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 3, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

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: March 28, 1990

Brief description of amendment: The amendment revises Technical Specifications Sections 2.1, 2.3, 3.3, 4.2, 4.3, 4.5, 5.3 and 6.13, Table of Contents, List of Tables, List of Figures and Figures 3.1A-5 and 3.1A-6 of Appendix A. Proposed changes to the Table of Contents and Section 5.3 of Appendix B, Part II, are also included. The proposed amendment is administrative in nature and consists of various changes to achieve consistency between Technical Specification sections, clarify Bases, correct inadvertent errors made by previous amendments, and delete and/or update superseded text.

Date of issuance: July 17, 1990

Effective date: July 17, 1990

Amendment No: 101

Facility Operating License No. DPR-64P: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18414) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 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.

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: May 14, 1990

Brief description of amendments: The amendments revise Technical Specification 4.0.2 and its associated Bases in accordance with Generic Letter 89-14. This removes the 3.25 limit in Technical Specification 4.0.2.

Date of issuance: July 17, 1990

Effective date: July 17, 1990

Amendment Nos.: 90 and 80

Facility Operating License Nos. NPF-10 and NPF-15: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** June 13, 1990 (55 FR 24003) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: May 16, 1990, and supplemented June 4, 1990.

Brief description of amendment: The amendment provides NRC approval of a proposed revision of the description of the spent fuel pool cooling system decay heat removal requirements in Section 9.1.3 of the Updated Final Safety Analysis Report. Based on its analysis pursuant to Title 10 of the Code of Federal Regulations, Article 10 CFR 50.59, the licensee concluded that the proposed revision involved an unreviewed safety question and that NRC review and approval was therefore required.

Date of issuance: July 16, 1990

Effective date: July 16, 1990

Amendment No.: 132

Provisional Operating License No. DPR-13: Amendment provides NRC approval of a proposed revision of the Updated Fuel Safety Analysis Report description of the spent fuel pool cooling system decay heat removal requirements. The amendment does not involve a change to the Technical Specifications or License Conditions.

Date of initial notice in **Federal Register:** June 13, 1990 (55 FR 24002). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1990. The information provided by letter dated June 4, 1990, was not outside the scope of the original notice. No significant hazards consideration comments received: No comments.

Local Public Document Room location: Main Library, University of California, Post Office Box 19557, Irvine, California 92713.

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: November 19, 1987, supplemented November 28, 1989

Brief description of amendment: The amendment revised the surveillance requirements for weekly channel functional testing of the Intermediate Range Monitors (IRMs) in Table 4.3.6-1 of the Technical Specifications (TS) by adding a requirement to verify the trip setpoints. It also changed the surveillance frequency of the upscale and downscale IRM channel calibration from once every 6 months to once every 18 months.

Date of issuance: July 18, 1990

Effective date: July 18, 1990

Amendment No. 31

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9517). The licensees' November 28, 1989 supplemental information was clarification only and did not change the staff's previous proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 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: May 20, 1988

Brief description of amendment: The amendment revised the alarm setpoint for the control rod scram accumulator from 1535 2715 psig decreasing to greater than or equal to 1520 psig decreasing.

Date of issuance: July 18, 1990

Effective date: July 18, 1990

Amendment No. 32

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12601) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: May 21, 1990

Brief description of amendments: The amendments relocate the NA-1&2 Radiological Effluent Technical Specifications to the Offsite Dose Calculational Manual or the Process Control Program, as appropriate.

Date of issuance: July 19, 1990

Effective date: July 19, 1990

Amendment Nos.: 130 & 114

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 13, 1990 (55 FR 24008) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 19, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: October 13, 1989, as supplemented November 21, 1989

Brief description of amendments: The amendments add a requirement to close the isolation valve on the drain pipe in the flood control dyke around the west end of the NA-2 turbine and service buildings within 4 hours of the main reservoir reaching a level of 252 feet above mean sea level (MSL).

In addition, the trigger level for escalating surveillance of the main reservoir water level is reduced from 255 feet MSL to 251 feet MSL and the surveillance interval is decreased from once every 24 hours to once every 8 hours when the reservoir level is below 251 feet MSL.

Date of issuance: July 25, 1990

Effective date: July 25, 1990

Amendment Nos.: 131 & 115

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 15, 1989 (FR 54 57610) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

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 September 7, 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).

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: May 14, 1990, as modified on July 18, 1990.

Brief description of amendment: This amendment replaces the existing 0-10 effective full power years (EFPY) and 10-40 EFPY heatup and cooldown curves with 0-12 EFPY heatup and cooldown curves. These curves are based on the final version of Regulatory Guide 1.99, Revision 2, and uses Combustion Engineering methodology, which has been previously reviewed and approved. These new calculations resulted in Technical Specification changes to the low temperature overpressure protection (LTOP) controls, the reactor coolant pump controls, the high pressure safety inspection (HPSI) operability and the HPSI controls which are also reflected in this amendment.

The initial amendment request was modified by the licensee's July 18, 1990, letter and as the result of the changes made to two of the five proposed Technical Specification changes, the Commission was requested to handle the proposed Technical Specifications which were changed by the July submittal on an emergency basis.

Date of issuance: July 24, 1990

Effective date: July 24, 1990

Amendment No.: 145

Facility Operating License No. DPR-53. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Notice of the initial amendment was published in the **Federal Register** on May 30, 1990 (55 FR 21962). No comments were received on that notice.

No public comments were requested on the July 18, 1990 letter which modified two of the five requested changes (change 2 and 3) in the original request. The result of the circumstances which led to modifying proposed changes 2 and 3 and the request for the Commission to handle the changes on an emergency basis are detailed in the NRC staff's Safety Evaluation in support of the amendment request. The Safety Evaluation also contains the NRC staff's final determination in relation to significant hazards consideration for proposed changes 2 and 3. This notice provides an opportunity for a hearing on these two proposed changes since no public comments were requested on the July 1990 letter due to the emergency circumstances.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1990.

Attorney for Licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

NRC Project Director: Robert A. Capra

Dated at Rockville, Maryland, this 1st day of August 1990.

For the Nuclear Regulatory Commission

Gus C. Lainas,

Acting Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-18417 Filed 8-7-90; 8:45 am]

BILLING CODE 7590-01-D

OFFICE OF PERSONNEL MANAGEMENT

Submission of Request for Extension of SF-15 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S. Code, chapter 35), this notice announces a proposed unchanged extension to a form which collects information from the public. Standard Form 15, Application for Veteran Preference, is completed by individuals applying for Federal jobs and who wish to apply for an additional 10 points of examination credit based on his/her military service or that of a spouse or child. OPM examining offices and agency appointing officials use the information provided to adjudicate the individual's claim in accordance with the Veteran Preference Act of 1944, as amended. Approximately 23,700 respondents annually expend 3950 burden hours to complete the SF-15. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy,
Agency Clearance Officer,
U.S. Office of Personnel Management,
Room 6410,

1900 E Street, NW.,
Washington, DC 20415 and
Joseph Lackey,
Information Desk Officer,
Office of Information and Regulatory Affairs,
Office of Management and Budget,
Room 3235,
New Executive Office Building,
Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Alan Campbell, (202) 606-2788.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-18489 Filed 8-7-90; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title*: Gross Earnings Reports.

(2) *Form(s) submitted*: BA-11.

(3) *OMB Number*: 3220-0132.

(4) *Expiration date of current OMB clearance*: Three years from date of OMB approval

(5) *Type of request*: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response*: Annually, Monthly or Quarterly at respondent's choice.

(7) *Respondents*: Businesses or other for-profit.

(8) *Estimated annual number of respondents*: 181.

(9) *Total annual responses*: 181.

(10) *Average time per response*: 1.78 hrs.

(11) *Total annual reporting hours*: 322.

(12) *Collection description*: Section 7(c)(2) of the RR Act requires a financial interchange between the OASDHI trust funds and the railroad retirement account. The collection obtains gross earnings of railway employees on a 1% basis. The information will be used for determining the amount which would place the OASDHI trust funds in the position they would have been if railroad service had been covered by the Social Security and FIC Acts.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Shannah Koss-McCallum (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 90-18495 Filed 8-7-90; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28294; File No. SR-MSE-90-12]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Midwest Stock Exchange, Inc., Relating to Listing and Trading of Index Warrants Based on the Financial Times-Stock Exchange 100 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 10, 1990, the Midwest Stock Exchange ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend its rules to allow the Exchange to list and trade index warrants based on the Financial Times-Stock Exchange 100 Index ("FT-SE 100" or "Index").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In June 1990, the Commission approved amendments to the MSE's rules permitting the listing of index warrants based on established market indexes, both domestic and foreign.[1] In approving the aforementioned amendments, the Commission stated that the MSE would be required to submit for Commission approval any specific index warrants that it proposed to trade. Accordingly, the MSE is submitting the proposed rule change pursuant to the Index Warrant Approval Order to allow the Exchange to list and trade warrants based on the FT-SE 10 Index.

The FT-SE 100 Index is an internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized and actively traded British stocks traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE").

FT-SE 100 warrant issues will be required to satisfy the MSE's listing guidelines approved in the Index Warrant Approval Order and set forth in Exchange Rule 8, Article XXVIII, which provide that: (1) The issuer shall have assets in excess of $100,000,000 and shall substantially exceed the size and earnings requirements of Exchange Rule 7, Article XXVIII; (2) the term of the warrants shall be for a period of at least one year from the date of issuance; (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders and the minimum aggregate market value of such issues shall be $4,000,000; and (4) the index warrants will be cash-settled in U.S. dollars.

[1] *See* Securities Exchange Act Release No. 28133 (June 19, 1990), 55 FR 26319 ("Index Warrant Approval Order"). The Index Warrant Approval Order sets forth generic listing standards for warrants based on domestic and international market indexes and certain sales practice rules for trading of these warrants.

FT-SE 100 Index warrants will be direct obligations of their issuer subject to cash settlement during their term, and either exercisable throughout their life (*i.e.*, American-style) or exercisable only on their expiration date (*i.e.*, European-style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the FT-SE 100 Index has declined below a prestated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the FT-SE 100 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Trading in FT-SE 100 warrants will be subject to several safeguards designed to ensure investor protection including: (1) Exchange Rule 3, Article XLVIII, which makes the MSE's options suitability standards applicable to recommendations regarding index warrants and (2) Exchange Rule 6, Article XLVIII, which requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day the order is entered. The MSE also recommends that FT-SE 100 Index warrants be sold only to options-approved accounts. In addition, prior to the commencement of trading in FT-SE 100 warrants, the MSE will distribute a circular to its membership calling attention to specific risks associated with warrants on the Index.

The MSE also is currently in the process of entering into a surveillance agreement with the ISE to ensure that there is an adequate mechanism for the sharing of surveillance information with respect to the Index's component stocks.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the rules governing the warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination among customers, issuers, brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The MSE does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be witheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 29, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 1, 1990.

Johnathan G. Katz,

Secretary.

[FR Doc. 90-18478 Filed 8-7-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S-867]

American President Lines, Ltd.; Extension of Time for Comments in the Matter of Docket S-867

Notice is hereby given that the closing date for comments in the Docket S-867 application of American President Lines, Ltd. is extended to September 4, 1990. The Notice of Application of Docket S-867 was published in the **Federal Register** of July 13, 1990 (55 FR 28860).

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

By Order of the Maritime Administrator.

Dated: August 2, 1990.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 90-18480 Filed 8-7-90; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Highway Safety Program; Amendment of Conforming Products List of Evidential Breath Testing Devices

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

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments which have been found to conform to the Model Specifications for Evidential Breath Testing Devices (49 FR 48854).

EFFECTIVE DATE: August 8, 1990.

FOR FURTHER INFORMATION CONTACT: Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS-21, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-9825.

SUPPLEMENTARY INFORMATION: On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974 (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published in Appendix D to that notice (49 FR 48864), a Conforming Products List (CPL)

of instruments that were found to conform to the Model Specifications. Amendments to the CPL have been published in the **Federal Register** since that time.

Since the last publication of the CPL, four devices were tested in accordance with the Model Specifications. Intoximeters, Inc., submitted an optional modification (compact manifold) to the Intoximeter 3000 (rev. B-2A) and 3000 (Fuel Cell), which conformed with the model specifications for both mobile and non-mobile instruments. Users are advised that the Intoximeter 3000 (rev. B-2A) *with compact manifold* shall be recorded as Intoximeter 3000 D, and the Intoximeter 3000 (full cell) *with compact manifold* shall be recorded as Intoximeter 3000 DFC. Further, Intoximeters, Inc., submitted an optional field module attachment for the Intoximeter 3000 series for evaluation. It was determined that the optional attachment does not affect performance or accuracy under the Model Specifications and, therefore, instruments so equipped are considered by NHTSA to be in conformance. Additionally, U.S. Alcohol Testing, Inc./Protection Devices, Inc., Alco-Analyzer 1000 and Alco-Analyzer 2000 conformed to the requirements of the Specifications for non-mobile evidential breath testers.

The Conforming Products List is therefore amended as follows:

Conforming Products List of Evidential Breath Measurement Devices

Manufacturer and model	Mobile	Non-mobile
Alcohol Countermeasures System, Inc., Port Huron, MI: Alert J3AD	X	X
BAC Systems, Inc., Ontario, Canada: Breath Analysis Computer		X
CAMEC Ltd., North Shields, Tyne and Ware, England: IR Breath Analyzer	X	X
CMI, Inc., Owensboro, KY: Intoxilyzer Model:		
4011	X	X
4011A	X	X
4011AS	X	X
4011AS-A	X	X
4011AS-AQ	X	X
4011 AW	X	X
4011A27-10100	X	X
4011A27-10100 with filter	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/89" ID Hose option)	X	X
5000 (CAL) DOJ	X	X
5000* (VA)	X	X
PAC 1200	X	X
Decator Electronics, Decator, IL: Alco-Tector model 500		X
Intoximeters, Inc., St. Louis, MO:		
Photo Electric Intoximeter		X
GC Intoximeter MK II	X	X
GC Intoximeter MK IV	X	X
Auto Intoximeter	X	X
Intoximeter Model:		
3000	X	X
3000 (rev B1)	X	X
3000 (rev B2)	X	X
3000 (rev B2A)	X	X
3000 (rev B2A) w/FM option	X	X
3000 (Fuel Cell)	X	X
3000 D	X	X
3000 DFC	X	X
Alco-Sensor III	X	X
Alco-Sensor IIIA	X	X
RBT III	X	X
Komyo Kitagawa, Kogyo, K.K.:		
Alcolyzer DPA-2	X	X
Breath Alcohol Meter PAM 101B	X	X
Life-Loc, Inc., Wheat Ridge, CO: PBA 3000-P	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
AE-D1	X	X
SD-2	X	X
EBA	X	X
Auto-Alcolmeter		X
Luckey Laboratories, San Bernadino, CA: Alco-analyzer Model:		
1000		X
2000		X
National Draeger, Inc., Pittsburgh, PA:		
Alcotest Model:		
7010	X	X
7110	X	X
Breathalyzer Model:		
900	X	X
900A	X	X
900BG	X	X
National Patent Analytical Systems, Inc., East Hartford, CT: BAC Datamaster	X	X
Omicron Systems, Palo Alto, CA: Intoxilyzer Model:		
4011	X	X
4011AW	X	X
Siemans-Allis, Cherry Hill, NJ:		
Alcomat	X	X
Alcomat F	X	X
Smith and Wesson Electronics, Springfield, MA: Breathalyzer Model:		
900	X	X
900A	X	X
1000	X	X
2000	X	X
2000 (non-Humidity Sensor)	X	X
Stephenson Corp.: Breathalyzer 900	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Dayton NJ:		
Alco-Analyzer 1000		X
Alco-Analyzer 2000		X
Verax Systems, Inc., Fairport, NY:		
The BAC Verifier	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster III	X	X

(23 U.S.C. 402; delegations of authority, at 49 CFR 1.50 and 501.)

Adele Derby,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 90-18472 Filed 8-7-90; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 153
Wednesday, August 8, 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).

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10 a.m., August 20, 1990.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of last meeting.
2. Thrift Savings Plan activities report by the Executive Director.
3. Quarterly review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: August 2, 1990.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 90-18730 Filed 8-6-90; 1:25 am]

BILLING CODE 6760-01-M

Corrections

Federal Register
Vol. 55, No. 153
Wednesday, August 8, 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.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions

Correction

In notice document 90-17574 beginning on page 30744 in the issue of Friday, July 27, 1990, make the following correction:

On page 30745, in the first column, in the seventh line from the top, "List" should read "Little".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0208]

Chelsea Labortories, Inc., Proposal To Withdraw Approval of Abbreviated New Drug Applications; Opportunity for a Hearing

Correction

In notice document 90-14474 beginning on page 25712 in the issue of Friday, June 22, 1990, make the following corrections:

1. On page 25712 in the third column, the last word in the **SUMMARY** should read, "labeling".

2. On page 25713 in the first column in the seventh full paragraph, 'Chelsea" was misspelled.

3. In the following places, delete the hyphen before the two letters, "mg":

a. On page 25715 in the third column, in the heading of the first full paragraph, after "150";

b. On page 25716 in the first column, in the heading of the second full paragraph, after "4" and "50";

c. On page 25717 in the first column, in the twentieth line from the top and the fifth line from the bottom; also in the second column in the first line.

4. On page 25715 in the third column in the first full paragraph on the tenth line, the batch number should read, "PD 1032".

5. On page 25717 in the third column in the first full paragraph, on the fifth line, the place mentioned is "West Point, PA".

BILLING CODE 1505-01-D

federal register

Wednesday
August 8, 1990

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting on Certain Federal Indian Reservations and Ceded Lands for the 1990-91 Season; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting On Certain Federal Indian Reservations and Ceded Lands for the 1990-91 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 1990-91 hunting season. This is in response to tribal requests for Service recognition of their authority to regulate hunting under established guidelines. This rule is necessary to allow establishment of season bag limits and thus harvest at levels compatible with population and habitat conditions.

DATES: The comment period for these proposed regulations will end August 23, 1990.

ADDRESSES: (Address comments to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634-Arlington Square, Washington, DC 20240. Comments received on these proposed special hunting regulations and tribal proposals are available for public inspection during normal business hours in Room 634-Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Keith A. Morehouse, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240 (703/358-1773).

SUPPLEMENTARY INFORMATION: In the February 23, 1990 **Federal Register** (55 FR 6584), the Service requested proposals from Indian tribes that wished to establish special migratory bird hunting regulations for the 1990-91 hunting season, under the guidelines described in the June 4, 1985 **Federal Register** (50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members on their reservations. The guidelines include possibilities for: (1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the March 10 to September 1 closed season mandated by the 1916 Miratory Bird Treaty with Canada. The guidelines are capable of application to those tribes that have recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands.

The guidelines provide for the continuation of harvest of waterfowl and other migratory game birds by tribal members on reservations where it has been a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season required by the 1916 Migratory Bird Treaty, and it is not so large as to adversely affect the status of the migratory bird resource. For the past several hunting seasons, 1987-88 through 1990-91, the Service has reached an agreement with the Mille Lacs Band of Chippewa Indians in Minnesota for hunting by tribal members on their lands. A similar agreement was reached with the Yankton Sioux Tribe in South Dakota for the 1988-89 hunting season.

Before developing the guidelines, the Service reviewed available information on the current status of migratory bird hunting on Federal Indian reservations and evaluated the impact that adoption of the guidelines likely would have on migratory birds. The Service has concluded that the size of the migratory bird harvest by tribal members hunting on their reservations is normally too small to have significant impacts on the migratory bird resource when compared with the larger off-reservation sport harvest by non-Indians.

An area of concern relates to hunting seasons for nontribal members on dates that are within Federal frameworks, but that are different from those established by the State(s) in which a Federal Indian reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse harvest impacts on one or more migratory bird species. The guidelines make such an event unlikely, however, because tribal proposals must include: Details on the harvest anticipated under the requested regulations; methods that will be employed to measure or monitor harvest (bag checks, mail questionnaires, *etc.*); steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and tribal capabilities to establish and enforce migratory bird hunting regulations. Based on a review of tribal proposals, the Service may require modifications, and regulations may be established experimentally, pending evaluation and confirmation of harvest information obtained by the tribes.

The Service believes that the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resources receives necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, the Service notes that they have been employed successfully since 1985 to establish special hunting regulations for Indian tribes. Therefore, the Service believes they have been tested adequately and they were made final beginning with the 1988-89 hunting season. It should be

stressed here, however, that use of the guidelines is not necessary and no action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

The Service notes that duck numbers last year were not substantially changed from those of the previous year, largely because of poor reproduction caused by an extended period of drought in the Prairie Pothole Region of Canada and the United States. The extended drought has been especially severe, and for conservation purposes, duck hunting regulations were again restrictive during the 1989–90 hunting season. Although water conditions have improved somewhat, preliminary results of recent breeding population surveys indicate little overall improvement in duck population status, and restrictive hunting regulations can be expected again for the 1990–91 season.

Hunting Season Proposals From Indian Tribes and Organizations

For the 1990–91 hunting season, the Service received requests from ten tribes and Indian organizations that followed the 1985 proposal guidelines and were appropriate for publication in the **Federal Register** without further and/or alternative actions. In addition, the Service received proposals or other correspondence from the Klamath Tribe (Oregon), Leech Lake Band of Chippewa Indians (Minnesota), Oneida Tribe of Indians of Wisconsin, the Tulalip Tribes (Washington) and the White Earth Bank of Chippewa Indians (Minnesota). The Service intends to seek further dialogue with these tribal groups to develop mutually acceptable hunting regulations and/or to formalize Service-tribal agreements for multi-year tribal formulation of regulations and management of the waterfowl resource. The Service actively solicits regulatory proposals from other tribal groups that have an interest in working cooperatively in the interest of waterfowl and other migratory game birds.

The proposed regulations for the ten different tribes are shown below. It should be noted that this proposed rule, and a final rule to be published later in an August 1990 **Federal Register**, will include tribal regulations for both early and late hunting seasons. The early season begins on September 1 each year and includes species such as mourning doves and white-winged doves. The late season usually begins on or around October 1 and includes most waterfowl species. Because final regulations for Indian tribes must be established by September 1, the proposed and final regulations for most tribal hunting seasons are described in relation to the season dates, season length and limits that will be permitted when final Federal frameworks are announced for early and late season regulations. For example, the daily bag and possession limits for ducks on reservations in the Southwestern United States will be shown as "Same as permitted Pacific Flyway States under final Federal frameworks to be announced," and limits for geese will be shown as the same that will be permitted the State(s) in which the reservations are located. The proposed frameworks for early season regulations are scheduled for early July publication in the **Federal Register**, and final Federal frameworks will be published in early August. Proposed late season frameworks for waterfowl and coots will be published in mid-August, and the final Federal frameworks for the late season will be published in a mid-September **Federal Register**. The Service will notify affected tribes of season dates, bag limits, etc., as soon as final frameworks are established. As discussed earlier in this document, no action is required by tribes that wish to observe the migratory bird hunting regulations established by the State in which a reservation is located.

1. Penobscot Indian Nation, Old Town, Maine

Since June 1985, the Service has approved a general migratory bird hunting season for both Penobscot tribal members and nonmembers, under regulations adopted by the State, and a sustenance season that applied only to tribal members. At the Service's request, the tribe has monitored black duck and other waterfowl harvest during each sustenance season and has confirmed that it is negligible in size.

In a May 29, 1990, proposal, the tribe again requested special regulations for tribal members in Penobscot Indian Territory, an area of trust lands that includes but is much larger than the reservation. These additional lands were acquired by the tribe as a result of the 1980 Maine Indian Claims Settlement. The tribe is proposing a 1990–91 sustenance hunting season of 77 days (September 15–November 30), with a daily bag limit of 4 ducks, including no more than 1 black duck and 2 wood ducks. The daily bag limit for geese would include 3 Canada geese, 3 snow geese, or 3 in the aggregate. When the sustenance and Maine's general waterfowl season overlap, the daily bag limit for tribal members would be only the larger of the two daily bag limits. All other Federal regulations would be observed by tribal members, except that shooting hours would be from one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting within Penobscot Indian Territory would adhere to the waterfowl hunting regulations established by the State of Maine.

The Service notes that the regulations requested by the tribe are nearly identical to those established last year and proposes to approve the tribal request.

2. Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico

The Jicarilla Apache Tribe had had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The tribe owns all lands on the reservation and has recognized full wildlife management authority. The proposed seasons and bag limits would be more conservative than allowed by the Federal frameworks of last season. Federal frameworks for this current season have not been determined due to the fact that 1990 waterfowl production figures are not known at present. However, based on existing information they are unlikely to be less conservative than those of the 1989–90 season.

In a May 19, 1990, proposal, the tribe requested the earliest opening date permitted Pacific Flyway States for ducks for the 1990–91 hunting season and a closing date of November 30, 1990. Daily bag and possession limits also would be the same as permitted Pacific Flyway States. However, it is proposed that no canvasbacks are to be allowed in the bag. The tribe requested that the season be closed for geese and other migratory game birds. The tribe conducts a harvest survey each year, and the duck harvest has been small.

The requested regulations are the same as were established last year, and the Service proposes to approve the tribe's request for the 1990–91 hunting season.

3. Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land owned by non-Indians. In the past, the tribe has observed the waterfowl hunting regulations established by the State of South Dakota. However, the tribe is developing a wildlife management program, and in a May 17, 1990, proposal, requested special waterfowl hunting regulations for the 1990–91 hunting season. The regulations would

apply to both tribal members and nonmembers hunting on tribal and trust lands within the external boundaries of the reservation. The tribe requested a continuous duck season, beginning on October 20, 1990, with the maximum number of days and the same daily bag and possession limits permitted in the Low Plains portion of South Dakota, under final Federal frameworks to be announced. The requested hunting season dates would be within Federal frameworks. The harvest is expected to be low because of the small number of hunters.

The tribe requested that the goose hunting season begin on October 13 and extend through January 6, a week later beginning and ending than in the 1989 season. The daily bag and possession limits would be as established by South Dakota in the Missouri River Zone.

The Service proposes to approve the tribal proposal and to continue the requested duck hunting regulations on an experimental basis, and asks that the tribe again survey the harvest to ensure that hunting activity and harvest are as low as anticipated.

4. Yankton Sioux Tribe, Marty, South Dakota

On May 18, 1990, the Yankton Sioux Tribe submitted a proposal requesting special Canada goose regulations for both tribal members and nonmembers hunting on tribal and trust lands during the 1990–91 hunting season. The tribe has requested a continuous Canada goose and white-fronted goose hunting season, beginning on October 20, 1990, with the maximum number of days permitted for South Dakota's Missouri River Zone, under final Federal frameworks to be announced. Daily bag and possession limits would be the same as permitted under Federal frameworks. Season dates and daily bag and possession limits for snow geese would be the same as established by South Dakota. The tribe wishes to adopt the duck hunting regulations that will be established by the State for the Low Plains region.

The Service proposes, with a requirement that the tribe continue to monitor the harvest of Canada and white-fronted geese by tribal members and nonmembers.

5. White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona

The White Mountain Apache Tribe owns all reservation lands, and the tribe has recognized full wildlife management authority. In a May 5, 1990, letter, the tribe requested a continuous waterfowl hunting season for 1990–91, with the latest closing date and longest season permitted under final Federal frameworks to be announced. The tribes requested the same daily bag and possession limits for ducks permitted Pacific Flyways States and the same bag and possession limits permitted Arizona for geese. Season dates and bag and possession limits for band-tailed pigeons and mourning doves would be the same as established by Arizona under final Federal frameworks. The regulations would apply both to tribal members and nonmembers.

The regulations requested by the tribe are the same as were approved last year, and the Service proposes to establish them again for the 1990–91 hunting season.

6. Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho

Almost all of the Fort Hall Indian Reservation is tribally-owned. The tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by nontribal members on reservation lands owned by non-Indians. As a compromise, since 1985, the Service has established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the tribes and provided for different season dates than in the remainder of the State. The Service agreed to the season dates because it seemed likely that they would provide additional protection to mallards and pintails; the State concurred with the zoning arrangement. The Service has no objection to the State's use of this zone again in the 1990–91 hunting season, provided the duck and goose hunting season dates are the same as on the reservation. For the 1990–91 hunting season, in a June 1, 1990, proposal, the Shoshone-Bannock Tribes have requested a continuous duck season with the maximum number of days and the same daily bag and possession limits permitted Pacific Flyway States, under final Federal frameworks to be announced. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted Pacific Flyway States. The tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted Idaho under Federal frameworks. The tribes propose that, if the same numbers of hunting days are permitted as in previous years, the seasons would have later opening and later closure dates than last year.

The Service notes that the requested regulations are nearly the same as those approved last year and proposes to approve the tribes' request for the 1990–91 hunting season.

7. Colorado River Indian Tribes, Colorado River Indiana Reservation, Parker, Arizona

The Colorado River Indian Reservation is located in Arizona and California. The tribes own almost all lands on the reservation, and they have full wildlife management authority. Beginning with the 1985 hunting season, the Service, as requested by the tribes, has established the same migratory bird hunting regulations on the reservation as in the Colorado River Zone in California.

In a May 31, 1990, proposal, the tribes requested the same regulations that were approved last year. As discussed earlier, the population status of ducks continues to be insecure. Consequently, while the regulations frameworks for ducks have not been announced, it is likely that restrictive regulations will be necessary for the 1990–91 hunting season. Therefore, the Service proposes to establish the same migratory bird hunting regulations on the reservation as will be established for California's Colorado River Zone. As in the past, the regulations would apply both to tribal members and nonmembers.

The Service proposes to approve the tribes' request for the 1990–91 hunting season.

8. Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana

During the past three years, the Confederated Salish and Kootenai Tribes and the State of Montana entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. By mutual agreement, waterfowl hunting regulations on the reservation have been the same as established for the Montana area of the Pacific Flyway and included provision for the customary early closure of the goose season on a portion of the reservation.

In a May 25, 1990, proposal, the tribes requested that the Service approve special regulations for the 1990–91 waterfowl hunting season. As in the past, the regulations would be at least as restrictive as for the Pacific Flyway portion of the State, and, if circumstances warrant, would provide for earlier closure of goose hunting. In a covering letter, Dale M. Becker, Tribal Manager, Wildlife Management Program, pointed out that the

Confederated Salish and Kootenai Tribes and the State of Montana are working toward consolidation of 1990–91 migratory game bird regulations. The consolidation process should be completed in August. The Service proposes to approve the tribes' request for special migratory bird regulations for the 1990–91 hunting season.

9. Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona

Since 1985, the Service has established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The tribe owns almost all lands on the reservation and has full wildlife management authority.

In a May 29, 1990, letter, the tribe proposed special migratory bird hunting regulations on the reservation for both tribal and nontribal members for the 1990–91 hunting season: for ducks, Canada geese, coots and common moorhens (gallinules), common snipe, band tailed pigeons, and mourning and white-winged doves. The Navajo Nation requests the earliest opening dates and longest seasons, and the same daily bag and possession limits permitted Pacific Flyway States under final Federal frameworks to be announced.

In addition, the tribe proposes to require tribal members and nonmembers to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation. The Service proposes to approve the Navajo Nation request for these special regulations for the 1990–91 migratory bird hunting seasons.

10. Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judically recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (which represents the various bands). Beginning in 1986, the Michigan Department of Natural Resources agreed to accommodate a tribal season on ceded lands in the western portion of the State's Upper Peninsula, and the Service approved special regulations for tribal members in both Michigan and Wisconsin during the 1986–87, 1987–88, 1988–89 and 1989–90 hunting seasons. In 1987, the Great Lakes Indian Fish and Wildlife Commission requested and the Service approved special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. The Service acknowledged the State's concern, but pointed out that the United States Government has recognized the Indian hunting rights decided in the *Voigt* case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the *Voigt* decision did not specifically address ceded land outside Wisconsin. The Service believes that this is appropriate because the treaties in question cover lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, and the fact that the tribal harvest was small, the Service approved special regulations for the 1987–88, 1988–89 and 1989–90 hunting seasons on ceded lands in all three States.

On June 1, 1990, the Great Lakes Indian Fish and Wildlife Commission again requested special migratory bird hunting regulations, and copies of the proposal were mailed to officials in the affected States of Michigan, Minnesota and Wisconsin. The proposed regulations are shown below. The proposal contains only minor season date changes from 1989 for the Minnesota and Wisconsin zones. These changes would move opening and closing dates to the same weekday as in the 1989–90 season, and are not expected to increase harvest levels. The only substantive change proposed is the later closing date of the Minnesota and Wisconsin Zone Canada goose season. Because of depressed population numbers and drought-related habitat problems in 1989, the Service believes there is a need to continue to provide protection for duck populations. Preliminary survey results for 1990 indicate that duck numbers will remain at depressed levels, and it is likely that restrictive duck regulations will be necessary again in the 1990–91 season. The Service believes that a final decision on the appropriate opening date of the duck season should be deferred until ongoing surveys of duck populations have been completed.

In this letter, the Commission also included a proposed Memorandum of Agreement for enforcement by the Service of ordinances regulating tribal member off-reservation migratory bird hunting. The agreement is similar to that used in 1989, but is intended to have long-term rather than short-term application.

In a June 19, 1990, letter, the Wisconsin Department of Natural Resources voiced a nonobjection to the proposed regulations for hunting by Chippewa Tribal members with regard to the opening dates of the duck and goose seasons, for the present.

However, the State reserved the right to modify its position pending further development of 1990 waterfowl production information. The Service received no written communications regarding the proposal from the States of Minnesota and Michigan. However, when contacted by phone, Michigan officials did not object to the Commission proposal and Minnesota officials reiterated their legal position outlined earlier. The Commission's proposed 1990–91 waterfowl hunting season regulations are as follows:

A. Ducks

Wisconsin and Minnesota Zones

Season Dates: Begin September 24. End with closure of Wisconsin Northern Zone duck season.

Daily Bag and Possession Limits: Same as permitted Wisconsin under final Federal frameworks to be announced.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan for the Western Upper Peninsula under final Federal frameworks to be announced.

B. Canada Geese

Wisconsin and Minnesota Zones

Season Dates: Begin September 17. End with closure of Wisconsin Northern Zone duck season.

Daily Bag and Possession Limits: 5 daily. Possession limit 10.

Michigan Zone

Season Dates: Same dates and season length permitted Michigan for the Western Upper Peninsula under final Federal frameworks to be announced.

Daily Bag and Possession Limits: 5 daily. Possession limit 10.

C. Other Geese (Blue, Snow, and White-fronted Geese)

Wisconsin and Minnesota Zones:
Season Dates: Begin September 17. End with closure of Wisconsin Northern Zone duck season.
Daily Bag and Possession Limits: Same as permitted Wisconsin under final Federal frameworks to be announced.
Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan for the Western Upper Peninsula under final frameworks to be announced.

D. Coots and Common Moorhens (Common Gallinule)

Wisconsin and Minnesota Zones:
Season Dates: Begin September 24. End with closure of Wisconsin Northern Zone duck season.
Daily Bag and Possession Limits: 20 daily, singly or in the aggregate. Possession limit 40.
Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks to be announced.

E. Sora and Virginia Rails

Wisconsin and Minnesota Zones:
Season Dates: Begin September 24. End with closure of Wisconsin Northern Zone duck season.
Daily Bag and Possession Limits: 25 daily, singly or in the aggregate. Possession limit 25.
Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan for the Western Upper Peninsula under final Federal frameworks to be announced.

F. Common Snipe

Wisconsin and Minnesota Zones:
Season Dates: Begin September 24. End with closure of Wisconsin Northern Zone duck season.
Daily Bag and Possession Limits: 8 daily. Possession limit 16.
Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan for the Western Upper Peninsula under final Federal frameworks to be announced.

G. Woodcock

Wisconsin and Minnesota Zones:
Season Dates: September 16–November 20.
Daily Bag and Possession Limits: 5 daily. Possession limit 10.
Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan for the Western Upper Peninsula under final Federal frameworks to be announced.

H. General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.
2. Tribal members will comply with all basic Federal migratory bird hunting regulations, 50 CFR part 20, and shooting hour regulations, 50 CFR part 20, subpart K.
3. Nontoxic shot will be required for all off-reservation hunting by tribal members of waterfowl, coots, moorhens and gallinules.
4. Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.
5. *Wisconsin Zone*
Tribal members will comply with section NR 10.09 (1)(a) (2) and (3), Wis. Adm. Code (shotshells), section NR 10.12 (1)(C), Wis. Adm. Code (shooting from structures), section NR 10.12 (1)(g), Wis. Adm. Code (decoys), and section 29.27 Wis. Stats. (duck blinds).
6. *Minnesota Zone.* Tribal members will comply with M.S. 100.29, Subd. 18 (duck blinds and decoys).
7. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with section NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

Public Comment Invited

In a March 15, 1990, letter, Mr. David Person commented as a private citizen on the February 23, 1990, **Federal Register** in which the Service requested tribal proposals. Mr. Person stated that he appreciated the balance that the Service * * * is trying to achieve in accommodating Indian tribes' requests for Service recognition of their reserved hunting rights and authority to regulate hunting throughout their reservations while ensuring that the migratory bird resource receives necessary protection." Mr. Person cites the destruction of waterfowl habitats by real estate development, as one of the main reasons for the decline of waterfowl numbers that was not included in the Notice of Intent, and suggests that this should be taken into account when considering the tribes' proposed hunting regulations. Specifically, Mr. Person suggests tying more permissive hunting regulations to wetlands preservation on reservations. Also, Mr. Person believes that more permissive hunting limits should be available only to tribal members and that nontribal members should not be able to buy their way into acquiring the reserved Indian hunting rights.

The Service response is that there is no doubt that land development, agricultural and other, has been a major cause of waterfowl habitat destruction and has reduced population numbers over the past 50 years. However, there is no reason to believe that habitat conversion on reservations has contributed significantly to that decline of waterfowl numbers. On the other hand, more permissive hunting regulations for tribal members are made in recognition of treaty rights accorded to the tribes by the United States Government. Regulations that are more liberal than Federal frameworks are authorized only for tribal members. Nontribal hunters on Indian lands may not have more liberal daily bag and possession limits than are established in the State in which the reservation is located (for geese) or in the flyway (for ducks). It should be noted that, like States, tribes may be more restrictive but not more liberal in their regulations than the Federal Government, and some tribes are more restrictive in their bag limits and seasons. Tribes adopted the nontoxic shot requirement for waterfowling very early in the nationwide conversion process. Overall, the tribes are very responsible in their approaches to waterfowl hunting regulations.

Based on the results of recently completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations beginning as early as September 1, 1990, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations for tribal or for both tribal members and nontribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, gallinules (including moorhen), woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks (including mergansers) and geese.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. Therefore, he desires to obtain the comments and suggestions on these proposals from the public, other concerned governmental agencies, tribal and other Indian organizations, and private interests, and he will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances in the establishment of these regulations limit the amount of time that the Service can allow for public comments. Two considerations compress the time in which this rulemaking process must operate: The need, on the one hand, for tribes and the Service to establish final regulations before September 1, 1990, and on the other hand, the unavailability before late July of specific reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a comment period past August 23, 1990, is impracticable and contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director, (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240. Comments received will be available for public inspection during normal business hours at the Service's Office of Migratory Bird Management in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA 22203. All relevant comments on the proposals received no later than August 23, 1990, will be considered.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES-75-74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88-14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Nontoxic Shot Regulations

On April 23, 1990 (55 FR 15249), the Service proposed nontoxic shot zones for the 1990-91 waterfowl hunting season. This proposed rule was sent to all affected tribes and to Indian organizations for comment. The final rule on nontoxic shot zones for the 1990-91 hunting season will be published in mid-August, 1990 in the **Federal Register.** All of the proposed hunting regulations covered by this proposed rule are in compliance with the Service's nontoxic shot restrictions.

Endangered Species Act Considerations

Section 7 of the Endangered Species, Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * *" Consequently, the Service has initiated section 7 consultation under the Endangered Species Act for the proposed hunting seasons on Federal Indian reservations and ceded lands. The Service's biological opinions resulting from its consultation under section 7 of the Endangered Species Act may be inspected by the public in and/or are available to the public from the Division of Endangered Species and Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register,** dated March 14, 1990 (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) and Executive Order 12291, "Federal Regulation," of February 17, 1981. These included preparing a Determination of Effects and revising the Final Regulatory Impact Analysis (FRIA). The FRIA will be completed prior to publication of the final frameworks. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial number of small entities under the Regulatory Flexibility Act. This detemination is detailed in the aforementioned documents which are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634-Arlington Square, Washington, DC 20240. As noted in the **Federal Register,** the Service plans to issue its Memorandum of Law for migratory bird hunting regulations at the same time the first of the annual hunting rules is completed. This rule does not contain any information collection requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Authorship

The primary author of this proposed rulemaking is Keith A. Morehouse, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1990-91 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended. The MBTA authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for this distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

Dated: August 1, 1990.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 90-18459 Filed 8-7-90; 8:45 am]

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federal register

Wednesday
August 8, 1990

Part III

Department of Housing and Urban Development

Office of Assistant Secretary

24 CFR Part 570

Historically Black Colleges and Universities, Technical Assistance Special Purpose Grants; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-90-1487; FR-2794-P-01]

RIN 2501-AA96

Historically Black Colleges and Universities, Technical Assistance Special Purpose Grants

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed rule making.

SUMMARY: Section 105 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989) (the Reform Act), amends section 107 of title I of the Housing and Community Development Act of 1974 (the 1974 Act), to authorize special purpose grants for historically Black colleges and universities. This proposed rule implements this new grant authority, as well as other amendments made by section 105 of the Reform Act to the 1974 Act regarding new publication requirements with respect to technical assistance grants and notification of funding availability for section 107 assistance.

DATES: Comment due date: October 9, 1990.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed requirements to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. Copies of all written comments received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, at the address listed above. As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708-2084).

FOR FURTHER INFORMATION CONTACT: For Historically Black Colleges and Universities (HBCU) program: Stephen Glaude, Office of Small and Disadvantaged Business Utilization, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708-0030. (This is not a toll-free number.) For Technical AssistanceProgram, Maggie H. Taylor, Technical Assistance Division, Office of Program Policy Development, Office of Community Planning and Development, (202) 708-2090. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The procurement and assistance requirements for the Technical Assistance Program have been approved under OMB Control Numbers 2535-0085 and 2535-0084, respectively. Requirements relating to unsolicited proposals have been approved under OMB Control Number 2506-0013.

Background

Subpart E of HUD's current regulations, set forth in 24 CFR part 570, is titled "Secretary's Fund", and consists of §§ 570.400, 570.402 through 570.407, and 570.410.

On December 11, 1989, HUD published a proposed rule (54 FR 50953) that would make significant changes to the rules and procedures set forth at § 570.402. That proposal would (1) redesignate § 570.402, "Technical assistance awards" in lieu of its current title, "Technical assistance grants and contracts", and (2) update § 570.402 to conform this section to legislative amendments to section 107 of the 1974 Act, 42 U.S.C. 5307. The December proposal is also designed to improve HUD's administration of the technical assistance award program. Public comments on the proposal were due on or before February 9, 1990.

Today, HUD is proposing additional revisions to § 570.402 as well as to other sections contained within subpart E. These additional changes are largely required because of more recent legislative amendments to section 107 of the 1974 Act that are embraced in the Reform Act approved on December 15, 1989. The proposed revisions may be described summarily as follows:

* * * The title of subpart E would be revised to read "Special Purpose Grants". Also, the table of contents for subpart E of part 570 will be revised to reflect program changes;

* * * A new subsection (h) titled "Publication of availability of funds" would be added to § 570.400;

* * * HUD will further revise § 570.402, establishing (a) selection criteria for *solicited applications and proposals*, and (b) public notice requirements on certain recipients of technical assistance funding;

Note: Because of the overlapping proposals affecting section 570.402, in the December 11, 1989 proposal and today's proposal, HUD has decided to publish the full text of § 570.402 as it would be revised by both rulemaking proceedings. However, public comment is being invited on § 570.402, only in relation to today's proposed changes, *i.e.*, those set forth in §§ 570.402(g)(2) and 570.402(k). As noted, *supra*, the public comment period on the balance of the revisions to § 570.402 closed on February 9, 1990.

* * * The existing rules in § 570.404 (areawide programs) will be deleted, and new rules that would govern the "historically Black colleges and universities program" will be inserted into § 570.404; and

* * * The existing rules at § 570.406 (innovative grants program) will be deleted, and new rules governing "formula miscalculation grants" would be incorporated in the section.

II. Explanation of Proposed Revisions

Section 105(e) of the Reform Act amendment the title of section 107 to "Special Purpose Grants." The title of subpart E of part 570 of the regulations implementing section 107 would therefore be changed accordingly.

Section 105(c) of the Reform Act added subsecion (f) to section 107, requiring publication of the availability of section 107 assistance. A new paragraph (h) would be added to § 570.400 of the Special Purpose Grants regulations, which would provide that HUD will publish each year the amount of funds available for the special purpose grant funding categories.

As noted, *supra*, on Decenber 11, 1989, the Department published a proposed rule which would generally amend the technical assistance regulations presently in effect under § 570.402. The December 1989 proposed rule, which was issued shortly before enactment of the Reform Act, contains no regulatory selection criteria for solicited applications. It provides in § 570.402(g)(2), that selection criteria for solicited applications will be described in the public announcement of solicitation or the solicitation itself. Since an additional requirement in new section 107(f) requires the selection criteria to be established by regulation, this proposed rule would add such criteria to the December 1989 proposed rule. The rule would also add a

provision that a Notice of the solicitation will be published in the **Federal Register** which includes the points to be given under the selection criteria in the regulations, and any special factors to be evaluated in assigning the points in order to achieve the objectives of the funding to be awarded under the Notice.

Section 105(b)(5) of the Reform Act amended the technical assistance grant authority to require grantees to publish the criteria and procedures by which they will select the recipients to be provided the technical assistance. This new requirement is also not contained in the December 1989 proposed rule, and would be added to that rule by a new paragraph (k) to § 570.402. The requirement would apply where HUD does not designate or select the recipients of the technical assistance which is to be provided by applicants funded under § 570.402.

For several years, under the technical assistance grants authority of section 107 of the Act (see 24 CFR 570.402), historically Black colleges and universities (HBCUs) have been funded to provide technical assistance to States, units of general local government, and Indian Tribes to increase the effectiveness of such entities in planning, developing and administering assistance under the community development block grant program. While HBCUs will continue to be eligible for such grants, section 105(b)(4) of the Reform Act amended section 107 to authorize HBCUs to receive direct special purpose grants for other activities eligible for assistance under the Act.

The proposed rule would implement this new grant authority in § 570.404, after deleting the no longer authorized "areawide programs" rule from that section. The new rule would provide that HBCUs are eligible to receive special purpose grants to carry out activities eligible under §§ 570.201 through 570.207 of the community development block grant regulations, provided that any activity which is required by State or local law to be carried out by a governmental entity could not be funded.

The rule would also set forth the selection criteria to be used to evaluate applications and would provide that applications will only be accepted in response to a request for grant application (RFGA) issued either concurrently with or after the publication of a notice of funding availability (NOFA) published in the **Federal Register**.

Finally, the rule for special purpose grants to HBCUs would authorize HUD to make multiyear funding commitments of up to five years, subject to satisfactory performance and the availability of appropriations. Under such commitments, recipients would not be required to compete in the selection process for subsequent funding years covered by the commitment provided they met applicable requirements.

The additional requirement in new section 107(f), noted supra, that applicable selection criteria be published in HUD regulations, needs no further implementation under the regulations in effect for each special purpose grant category, since the current regulations already contain such criteria. However, those regulations have not been amended to add the grants authorized under section 107(b)(2), to states and units of general local government receiving insufficient formula grant amounts under section 106 due to miscalculations. The authority was added by section 107(e) of the Housing and Urban-Rural Recovery Act of 1983, Public Law No. 98-181, 97 Stat. 1155, 1167. The selection criterion would be simply that the grantee's formula share was miscalculated, resulting in a grant less than the statutory amount under section 106. In such event, subject only to the availability of funds, the grant would be made. The proposed rule would implement the authority in § 570.406, after deleting the no longer authorized "innovative grants program" rule from that section. Also, § 570.407, "Federally recognized disasters" shall be deleted, since the legislation governing this program has been repealed.

Other Matters

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies proposed in this proposed rule would not have Federalism implications when implemented and, thus, are not subject to review under the Order. Nothing in the rule implies any preemption of State or local law, nor does any provision of the rule disturb the existing relationship between the Federal Government and State and local governments.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, has determined that this rule would not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order.

A Finding of No Significant Impact with regard to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410.

This rule would not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, inasmuch as the entities funded under this program will be relatively few in number. Consequently, HUD does not believe that a significant number of small entities will be affected by this program. The application requirements associated with funding under the program have been kept to the minimum necessary for administration of grant funds, and the Department does not believe it is necessary or appropriate to alter these requirements as they apply to small entities who may be prospective grantees.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226), under Executive Order 12291 and the Regulatory Flexibility Act.

The Historically Black Colleges and Universities and Technical Assistance Special Purpose Grants is listed in the Catalog of Federal Domestic Assistance under number 14.227.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: Housing and community development, Technical assistance, Small cities, Housing.

Accordingly, 24 CFR part 570 is proposed to be amended as follows:

1. The authority citation for 24 CFR part 570 would be revised to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. 24 CFR part 570 is amended by revising the heading and the table of contents to subpart E to read as follows:

Subpart E—Special Purpose Grants

570.400 General.
570.402 Technical assistance awards.
570.403 New communities.
570.404 Historically Black colleges and universities program.
570.405 The insular areas.
570.06 Formula miscalculation grants.
570.410 Special projects program.

Subpart E—Special Purpose Grants

3. In § 570.400, paragraph (h) would be added to read as follows:

§ 570.400 General.

* * * * *

(h) *Publication of availability of funds.* HUD will publish by notice in the **Federal Register** each year the amount of funds available for the special purpose grants authorized by each section under this subpart.

4. Section 570.402 would be revised to read as follows:

§ 570.402 Technical assistance awards.

(a) *General.* (1) The purpose of the Community Development Technical Assistance Program is to increase the effectiveness with which States, units of general local government, and Indian tribes plan, develop, and administer assistance under title I and section 810 of the Act. Title I programs are the Entitlement Program (24 CFR part 570, subpart D); the section 108 Loan Guarantee Programs (24 CFR part 570, subpart M); the Urban Development Action Grant Program (24 CFR part 570, subpart G); the HUD-administered Small Cities Program (24 CFR part 570, subpart F); the State-administered Program for Non-Entitlement Communities (24 CFR part 570, subpart I); and the Special Purpose Grants for Insular Areas, Community Development Work Study and Historically Black Colleges and Universities (24 CFR part 570, subpart E); and for Indian Tribes (24 CFR part 571). The section 810 program is the Urban Homesteading Program (24 CFR part 590).

(2) Funding under this section is awarded for the provision of technical expertise in planning, managing or carrying out such programs including the activities being or to be assisted thereunder and other actions being or to be undertaken for the purpose of the program, such as meeting applicable requirements (e.g., citizen participation, nondiscrimination, OMB Circulars), increasing program management or capacity building skills, attracting business or industry to CDBG assisted economic development sites or projects, assisting eligible CDBG subrecipients such as neighborhood nonprofits or small cities in how to obtain CDBG funding from cities and States. The provision of technical expertise in other areas which may have some tangential benefit or effect on a program is insufficient to quality for funding.

(3) Awards may be made in response to (i) a solicitation for applications or proposals in the form of a publicly available document which invites the submission of applications or proposals within a prescribed period of time, or (ii) unsolicited proposals.

(b) *Definitions.* (1) *Areawide planning organization* (APO) means an organization authorized by law or local agreement to undertake planning and other activities for a metropolitan or non-metropolitan area.

(2) *Technical assistance* means the facilitating of skills and knowledge in planning, and administering activities under title I and section 810 of the Act in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under title I.

(c) *Eligible applicants.* Eligible applicants for award of technical assistance funding are: (1) States, units of general local government, APOs, and Indian Tribes; and (2) public and private non-profit or for-profit groups, and educational institutions capable of demonstrating their qualifications to provide technical assistance to governmental units and to carry out the required tasks in a timely and cost effective manner. An applicant group must be designated as a technical assistance provider to a unit of government's title I program or Urban Homesteading program by the chief executive officer of each unit to be assisted, unless the assistance is limited to conferences/workshops attended by more than one unit of government.

(d) *Technical assistance objectives.* Proposals or applications submitted under this section which address at least one of the following objectives will be given priority:

(1) Expanding homeownership and affordable housing opportunities;

(2) Creating jobs and economic development where projects eligible under title I and the Urban Homesteading Programs are involved giving priority to proposals ro applications which fall within enterprise zones designated under State or Federal laws:

(3) Helping to end the tragedy of homelessness;

(4) Empowering the poor through resident management and homesteading;

(5) Enforcing fair housing for all;

(6) Making public housing drug-free; and

(7) Eliminating fraud, waste and mismanagement.

Proposals or applications which address other objectives related to title I or Urban Homesteading needs will be given consideration to the extent that funds are available and the need is determined to be significant.

(e) *Eligible Activities.* Activities eligible for technical assistance funding include:

(1) The provisions of technical or advisory services;

(2) The design and operation of training projects, such as workshops, seminars, or conferences;

(3) The development and distribution of technical materials and information; and

(4) Other methods of demonstrating and making available skills, information and knowledge to assist States, units of general local government, or Indian Tribes in planning, developing, or administering assistance under title I and Urban Homesteading programs in which they are participating or seeking to participate.

(f) *Ineligible activities.* Activites for which costs are ineligible under this section include:

(1) In the case of technical assistance for States, administrative expenses incurred by a State in administering its State CDBG program for non-entitlement communities;

(2) The cost of carrying out the activities authorized under the title I and Urban Homesteading programs, such as for the provision of public services, construction, rehabilitation, and administration;

(3) The cost of acquiring or developing the specialized skills or knowledge to be provided by a group funded under this section:

(4) Research activities;

(5) The cost of identifying units of governments needing assistance; or

(6) Activities designed primarily to benefit HUD, or to assist HUD in carrying out the Department's responsibilities; such as research, policy analysis of proposed legislation, training or travel of HUD staff, or development and review of reports to the Congress.

(g) *Criteria for selection.* In determining whether to fund proposals or applications submitted under this section, the Department will review proposals or applications under the following criteria:

(1) *For unsolicited proposals.* (i) The extent to which the project would aid specific activities currently funded with title I funds by a State, unit of general local government or Indian Tribe, or specific activities planned to be funded with title I funds, or otherwise demonstrates a clear and direct connection to, and ability to aid, eligible title I or Urban Homesteading program participants in planning, developing or administering programs funded or to be funded with title I or Urban Homesteading funds.

(ii) The extent to which the project addresses a significant title I or Urban Homesteading Program need of eligible recipients, as identified in notices published by HUD or as otherwise justified by the proposer.

(iii) The extent to which the proposal is innovative or unique;

(iv) The extent to which the proposed work plan is clear, feasible, and cost-effective.

(v) The extent to which the project addresses one or more of the Technical Assistance Program objectives listed in paragraph (d) of this section;

(vi) The qualifications of the proposed provider of the technical assistance, including the extent to which it currently possesses the skills or knowledge to be provided;

(vii) The technical and financial feasibility of the proposed project and the methods to be used to provide skills and knowledge;

(viii) The extent to which the projected benefits or expected results of the proposed technical assistance are feasible;

(ix) The extent to which the project does not duplicate other on-going technical assistance projects;

(x) The availability of Community Development Technical Assistance funding; and

(xi) The extent to which the results can be transferred to other title I or Urban Homesteading program participants.

(xii) Any criteria required by Federal Acquisition Regulation (FAR) 15.506–2, if the proposal is to result in a contract award.

(2) *For solicited applications.* The Department will use two types of criteria for reviewing and selecting solicited applications or proposals:

(i) Evaluation Criteria: These criteria will be used to rank applications according to weights which may vary with each competition:

(A) Probable effectiveness of the application in meeting needs of localities and accomplishing project objectives;

(B) Soundness and cost-effectiveness of the proposed approach;

(C) Capacity of the applicant to carry out the proposed activities in a timely and effective fashion;

(D) The extent to which the results may be transferable or applicable to other title I or Urban Homesteading program participants.

(ii) Program Policy Criteria; these factors may be used by the selecting official to select a range of project that would best serve program objectives for a particular competition:

(A) Geographic distribution;

(B) Diversity of types and sizes of applicant entities; and

(C) Diversity of methods, approaches, or kinds of projects.

The Department will publish a notice of fund availability in the **Federal Register** for each competition indicating the maximum points to be awarded each evaluation criterion for the purpose of ranking application, any special factors to be evaluated in assigning the points to each evaluation criterion, and which program policy factors will used, the impact of such factors on the selection process, the justification for their use and, if appropriate, the relative priority of each program policy factor.

(3) *For solicited procurement proposals.* The Department's criteria for review and selection of solicited proposals for procurement contracts will be described in its public announcement of the availability of a request for proposals (RFP).

(h) *Submission procedures.* (1) Solicited applications shall be submitted in accordance with the time and place and content requirements stated in the Department's **Federal Register** notice or request for application.

(2) Unsolicited proposals (an orignial and two copies) may be submitted, at any time, to: Director, Office of Program Policy Development, Community Planning and Development, 451 Seventh Street, SW., room 7148, Washington, DC 20410.

(3) Unsolicited proposals shall include the following:

(i) The standard Form 424 as a face sheet, signed and dated by a person authorized to represent and contractually or otherwise commit the applicant making the proposal;

(ii) A concise title and brief abstract of the proposed effort including the total cost;

(iii) A Statement of Work describing the specific project tasks and sub-tasks proposed to be undertaken;

(iv) A proposed budget showing the proposed costs and person-days of effort for each task and sub-task, by cost categories, with supporting documentation of costs and a justification of person-days of effort;

(v) A narrative statement that:

(A) Identifies specific activities to be aided which are currently funded with title I or Urban Homesteading funds by a State, unit of general local government or Indian Tribe, or specific activities planned to be funded with title I or Urban Homesteading funds, or otherwise demonstrates a clear and direct connection to, and ability to aid, eligible title I or Urban Homesteading program participants in planning, developing or administering programs funded or to be funded with title I or Urban Homesteading funds.

(B) Demonstrates the extent to which the proposed statement of Work addresses one or more of the technical Assistance Program objectives listed in paragraph (d) of this section;

(C) Provides the names of each eligible title I or Urban Homesteading State, units of local government, or Indian Tribe expected to be assisted under the proposal;

(D) Demonstrates that a significant title I or Urban Homesteading program need will be addressed for each State, unit of local government, or Indian tribe proposed for assistance.

(E) Demonstrates the qualifications of the proposed provider of the technical assistance, including a brief description of the organization and the extent to which it currently possesses the skills or knowledge to be provided, previous experience in the field, and names and resumes of the key personnel who would be involved;

(F) Provides a work plan which describes the planned schedule; identifies steps in the work process required for completing the work; and the period of time needed to accomplish each step; and describes the financial and other resources allocated to each task or activity.

(G) Describes benefits or expected results of the proposed technical assistance.

(vi) A letter of designation where required under § 570.402(c), for each proposed State, local government, or Indian tribe to be assisted, must be signed by the Chief executive officer. The letter should indicate the community's need for the technical assistance proposed and designate the applicant as a provider.

(4) An unsolicited proposal may include data that the proposer does not want disclosed for any purpose other than evaluation.

(i) If the proposer wishes to restrict the proposal, the title page must be marked with the following legend:

Use and Disclosure of Data

The data in this proposal shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal, *Provided that* if a contract, grant or cooperative agreement is awarded to this offeror as a result of or in connection with the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the contract, grant or cooperative agreement. This restriction does not limit the Government's right to use information contained in the data if it is obtainable from another source without restriction. The data subject to this restriction are not contained in pages _____.

(ii) The proposer shall also mark each restricted page with the following legend:

Use or disclosure of proposal data is subject to the restriction on the title page of this Proposal.

(i) *Approval procedures*—(1) *Acceptance.* HUD's acceptance of a proposal for review does not imply a commitment to provide funding.

(2) *Notification.* HUD will provide notification of whether a project will be funded or rejected.

(3) *Form of award.* (i) HUD will award technical assistance funds as a grant, cooperative agreement or contract, consistent with this section, the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6301–6308, the HUD Acquisition Regulation, and the Federal Acquisition Regulation.

(ii) When HUD's purpose is to support or stimulate a recipient-initiated or on-going technical assistance activity, an assistance instrument (grant or cooperative agreement) shall be used. A grant instrument will be used when substantial Federal involvement is not anticipated. A cooperative agreement will be used when substantial Federal involvement is anticipated. When a cooperative agreement is selected, the agreement will specify the nature of HUD's anticipated involvement in the project.

(iii) A contract shall be used when HUD's primary purpose is to obtain a provider of technical assistance to act on the Department's behalf. In such cases, the Department will define the specific tasks to be performed. In accordance with the Federal Grant and Cooperative Agreement Act, nothing in paragraph (i)(3) of this section shall preclude the Department from awarding a procurement contract in any other case when it is determined to be in the Department's best interests.

(4) *Administration.* Project administration will be governed by the terms of individual awards and relevant regulations and statutory requirements. As a general rule, proposals will be funded to operate for one to two years, and periodic and final reports will be required.

(j) *Environmental and intergovernmental review.* The requirements for Environmental Reviews and Intergovernmental Reviews do not apply to technical assistance awards.

(k) *Selection of recipients of technical assistance.* Where under the terms of the funding award the recipient of the funding is to select the recipients of the technical assistance to be provided, the funding recipient shall publish, and publicly make available to potential technical assistance recipients, the availability of such assistance and the specific criteria to be used for the selection of the recipients to be assisted.

(Information collection requirements contained in paragraph (h)(1) of this section approved under OMB Control Numbers 2535–0085 and 2535–0084; and information collection requirements contained in paragraphs (h)(2) and (h)(3) of this section approved under OMB Control Number 2506–0013)

5. Section 570.404 would be revised to read as follows:

§ 570.404 Historically Black colleges and Universities program.

(a) *General.* Grants under this section will be awarded to historically Black colleges and universities to expand their role and effectiveness in addressing community development needs, including neighborhood revitalization, housing and economic development in their localities, consistent with the purposes of title I of the Housing and Community Development Act of 1974, as amended.

(b) *Eligible Applicants.* Only historically Black colleges and universities as determined by the Department of Education pursuant to that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications.

(c) *Eligible Activities.* Activities that may be funded under this section are those eligible under §§ 570.201 through 570.207, Provided that any activity which is required by State or local law to be carried out by a governmental entity may not be funded under this section. Not more than twenty (20) percent of any grant awarded under this section may be used for overall program administration or planning activities eligible under §§ 570.205 and 570.206.

(d) *Applications.* Applications will only be accepted from eligible applicants in response to a Request for Applications (RFA) which will be issued either concurrently with or after the publication of a notice of funding availability (NOFA) published in the **Federal Register.** The NOFA will describe the special objectives sought to be achieved by the funding to be provided, points to be awarded to each of the selection criteria listed in paragraph (e) of this section and any special factors to be evaluated in assigning points under the selection factors to be evaluated in assigning points under the selection factors to achieve the stated objectives. The NOFA will also state the deadline for the submission of applications, the total funding available for the competition and the maximum amount of individual grants. The NOFA will include further information and instructions for the submission of acceptable applications to HUD.

(e) *Selection Criteria.* Each application submitted pursuant to this section shall be evaluated by HUD using the following criteria:

(1) The extent to which the applicant addresses the objectives published in the NOFA and the RFA.

(2) The extent to which the applicant demontrates to HUD that the proposed activities will have a substantial impact in achieving the stated objectives.

(3) The special needs of the applicant or locality to be met in carrying out the proposed activities, particularly with respect to benefiting low- and moderate-income persons.

(4) The feasibility of the proposed activities, *i.e.*, tecnical and financial feasibility, for achieving the stated objectives, including local support for activities proposed to be carried out in the locality and any matching funds proposed to be provided from other sources.

(5) The capacity of the applicant to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any prior HUD-assisted projects or activities.

(6) In the case of proposals/projects of approximately equal merit, HUD retains the right to exercise discretion in selecting projects that would best serve the program objectives with consideration given to the needs of localities, types of activities proposed, an equal geographical distribution, and program balance.

(f) **Certifications.** (1) Certifications required to be submitted by applicants shall be as prescribed in the RFA packages.

(2) In the absence of independent evidence which tend to challenge in a substantial manner the certifications made by the applicant, such certifications will be accepted by HUD. If such independent evidence is available to HUD, however, HUD may require further information or assurances to be submitted in order to find the applicant's certifications satisfactory.

(g) *Multiyear funding commitments.* (1) HUD may make funding commitments of up to five years, subject to the availability of appropriations. In determining the number of years for which a commitment will be made, HUD will consider the nature of the activities proposed, the capacity of the recipient to carry out the proposed activities and year-by-year funding requirements.

(2) Awards will be made on a 12-month period of performance basis. Once a recipient has initially been selected for an award, it would not be required to compete in a full-and-open competition for the subsequent funding years covered by the multiyear funding commitment. Recipients performing satisfactorily will be invited to submit applications for subsequent funding years as per the requirements outlined in the notice of funding availability and request for grant application. Subsequent year funding will be determined by the following:

(i) The recipient has submitted all reporting requirements of the previous year(s) in a timely, complete and satisfactory manner in accordance with the terms and conditions of the cooperative agreement.

(ii) The recipient has submitted sufficient evidence to demonstrate successful completion of the tasks and deliverables of the cooperative agreement. A determination of satisfactory performance will be made by HUD based upon evidence of task completions provided by the recipient along with data from client feedback and site evaluations.

(iii) The recipient has submitted the next annual application.

(iv) The subsequent year's application is consistent with that described in the original application.

(3) Recipients participating in multiyear funding projects are not eligible to apply for additional cooperative agreements in the same project and/or activity area for which they are receiving funds. They are eligible to compete for cooperative agreements in other project or activity areas.

(h) *Selection and Notification.* The HUD decision to approve, disapprove or conditionally approve an application shall be communicated in writing to the applicant.

(i) *Environmental and intergovernmental review.* The requirements for Environmental Reviews and Intergovernmental Reviews do not apply to technical assistance awards. Insofar as activities conducted under the HBCU program require the rehabilitation or physical change to a property, HUD will conduct an environmental review in accordance with 24 CFR part 50 before giving its approval to a proposal.

6. Section 570.406 would be revised to read as follows:

§ 570.406 Formula miscalculation grants.

(a) *General.* Grants under this section will be made to States and units of general local governments determined by the Secretary to have received insufficient amounts under section 106 of the Act as a result of a miscalculation of its share of funds under such section.

(b) *Application.* Since the grant is to correct a technical error in the formula amount which should have been awarded under section 106, no application is required.

(c) *Use of funds.* The use of funds shall be subject to the requirements, certifications and Final Statement otherwise applicable to the grantee's section 106 grant funds provided for the fiscal year in which the grant under this section is made.

(d) *Unavailability of funds.* If sufficient funds are not available to make the grant in the fiscal year in which the Secretary makes the determination required in paragraph (a) of this section, the grant will be made, subject to the availability of appropriations for this Subpart, in the next fiscal year.

§ 570.407 [Removed]

7. Section 570.407, "Federally recognized disasters" would be removed.

Dated: July 5, 1990.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

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August 8, 1990

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary

24 CFR Part 570

Community Development Block Grant Program; Escrow Accounts; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-90-1341; FR-2164-F-02]

RIN 2506-AA66

Community Development Block Grant Program; Escrow Accounts

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: The HUD Office of Community Planning and Development believes that the currently unregulated use of escrow accounts for residential rehabilitation is widespread among grantees. This rule allows program recipients to use escrow accounts under certain circumstances in connection with CDBG-assisted residential rehabilitation programs. This rule is designed to ensure that where CDBG recipients use escrow accounts to fund residential rehabilitation loans and grants, the escrow accounts are established in accordance with both the spirit and the letter of the Treasury, OMB, and HUD requirements.

EFFECTIVE DATE: September 7, 1990.

FOR FURTHER INFORMATION CONTACT: Paul D. Webster, Director, Financial Management Division, Office of Block Grant Assistance, room 7180, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, (202) 708-1871. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The HUD Office of Community Planning and Development believes that the currently unregulated use of escrow accounts for residential rehabilitation is widespread among grantees. Furthermore, an audit by HUD's Office of Inspector General determined that some CDBG recipients may have violated U.S. Treasury Department regulations by maintaining in escrow accounts for extended time periods CDBG program funds advanced from the Treasury before a real need existed to use the funds.

Cash withdrawals from the U.S. Treasury by a CDBG program recipient are required to be in accordance with U.S. Department of Treasury regulations on advances under Federal Programs (31 CFR part 205) and the requirements of 24 CFR part 85, particularly §§ 85.20 and 85.21. (Part 85 was adopted by the Department as a result of a government-wide common rule, and it contains many of the requirements formerly set forth in OMB Circular A-102).

This rule is designed to ensure that where CDBG recipients use escrow accounts to fund residential rehabilitation loans and grants, the accounts are established and used in accordance with both the spirit and the letter of the above-mentioned Treasury, OMB, and HUD requirements. Under these requirements—particularly 31 CFR 205.4—cash withdrawals must be timed to coincide with the actual immediate cash requirements of the recipient in carrying out the approved program or project. The timing of the withdrawals must be as close as is administratively feasible to actual disbursement by the recipient for program costs. Under the letter of these requirements, therefore, when the CDBG-assisted activity takes the form of a loan or grant by the recipient to a private property owner for rehabilitation of property by a private contractor, compliance with the Treasury/OMB cash withdrawal requirements is not to be judged in terms of when the property owner incurs costs under the rehabilitation contract, but when the recipient incurs the program cost for the eligible activity (the loan or grant). In this regard, the program cost is incurred by the recipient at the point that CDBG funds are required to be paid under the terms of the loan or grant agreement between the block grant recipient and the property owner. However, the involvement of the block grant recipient, in setting the terms of the loan or grant, can create situations that are contrary to the spirit, if not the letter, of the Treasury/OMB cash withdrawal requirements.

Typically, these rehabilitation loan or grant agreements call for payment of the loan or grant proceeds to the owner by means of the deposit of some or all of these proceeds into an escrow account administered by the CDBG recipient, or its agent, in a private bank, to be disbursed from escrow when both the owner and the recipient are satisfied that work has been properly completed under the rehabilitation contract. Both rehabilitation contractors and property owners are pleased with this arrangement—contractors because they are assured that the money is available for payment upon the satisfactory completion of their work, and owners because they do not have to advance funds to the contractor to get the work underway, or pay a premium to a contractor who can afford to wait for payment for a longer period.

HUD recognizes that administrative convenience and cost savings to the owner, contractor, or CDBG recipient are not really material to the issue of whether Treasury/OMB cash withdrawal requirements are being met, and that these requirements demand that there be an immediate cash need for each withdrawal. Additionally, HUD recognizes that the mere inclusion of a provision regarding drawdown in the terms of a rehabilitation loan or grant contract is not sufficient, in and of itself, to justify the drawdown, since the grantee has the ability to control the terms governing the loan or grant and could use this procedure to circumvent grant drawdown requirements. Nonetheless, the Department is convinced that deposits into escrow accounts are necessary in many cases in order for owners of small residential properties to procure the services of rehabilitation contractors consistent with HUD or local program objectives (including the provision of opportunities for minority contractors). However, for HUD to make case-by-case determinations of need for an escrow account would be extremely time-consuming. Instead, the Department has developed in this rule the criteria needed to (1) establish when escrow accounts may generally be regarded as necessary, consistent with both the letter and spirit of the Treasury/OMB guidelines, and (2) regulate escrow accounts to prevent unnecessary accumulation of funds.

Small, and often minority, contractors constitute a large majority of the firms that participate in CDBG-funded rehabilitation programs, and they are essential to the effective operation of these programs. The rehabilitation industry is, in fact, largely composed of such small contractors. These firms, generally operated personally by their owners as sole proprietorships, are characterized by a small number of full-time employees and an annual dollar volume of under $250,000. Generally, these are cash-basis operations working on many individual contracts averaging $15,000 or less. These firms usually do not have sufficient financial resources to carry receivables for the period of the local government's normal payment cycle. They are often either unable to obtain working capital financing or can do so only at prohibitive rates. These contractors require the timely progress payments that escrow accounts make possible. Since small contractors are essential to the operation of a CDBG rehabilitation of primarily residential properties containing no more than four dwelling units, and since small

contractors require very prompt payment, the use of escrow accounts in such cases serves a legitimate program need. In addition, it enhances program access by such contractors in accordance with the policy stated in OMB Circular A-102 concerning contracting with small and minority business firms.

This Rule

This rule adds a new section titled "Use of escrow accounts for rehabilitation of privately-owned residential property" to subpart J of the Community Development Block Grant (CDBG) regulations at 24 CFR part 570. Under this rule, a recipient is permitted to withdraw funds initially from its letter of credit for deposit into an escrow account only after the property owner has executed the contract with the contractor selected to perform rehabilitation work. The terms of the rehabilitation contract between the owner and the contractor must provide expressly for payments through the escrow account. The amount of funds in the escrow account at any time must not exceed the amount expected to be disbursed from the account within 10 working days from the date of deposit. If the grantee has, for whatever reason, withdrawn more than 10 days cash needs, it shall immediately return the excess funds to its program account. In the program account, the excess funds would then be subject to the Treasury's usual rules governing erroneous drawdowns.

The rule prohibits the use of escrowed amounts for noncontractual eligible costs, such as the recipient's administrative costs under 24 CFR 570.206 or rehabilitation services under 24 CFR 570.202(b)(9). The rule also provides that interest earned on the escrow account, after deducting any service charges, will be remitted to HUD. Interest earned on escrow accounts used in connection with activities carried out under revolving funds will not be required to be returned to HUD to the extent the interest income is attributable to the investment of program income. (Further discussion of this is set forth later in the preamble under *Public Comments.*)

Upon completion of all rehabilitation activities utilizing an escrow account, unused funds are required to be withdrawn from the escrow account and deposited into the recipient's program account, or, in the case of amounts over $10,000 which will not be disbursed within seven calendar days, remitted to HUD and restored to the recipient's letter of credit.

Finally, the rule indicates that where a recipient fails to comply with these limitations, HUD may, in addition to invoking any other sanctions available, require the recipient to discontinue the use of escrow accounts, in whole or in part.

Public Comments

On October 5, 1987 the Department published a proposed rule in the **Federal Register** (52 FR 37162) proposing to establish generally the above-discussed limitations on the use of escrow accounts in connection with Community Development Block Grant (CDBG) assisted residential rehabilitation programs.

Seventy-nine comments were received in response to the proposed rule. Fifty-five comments were from city or public development agencies; twelve were from county governments or agencies; eight were from States; two were from private consulting firms; one was from a national housing and development association; and one from an area community service agency.

Nearly all comments shared the same strong criticism of the rule and either recommended its total withdrawal or extensive revision of key provisions. A discussion of the comments follows. HUD's response follows each comment.

1. Sixty-one commenters objected to the requirement that the amount of funds deposited in the escrow account be limited to an amount that is expected to be disbursed within ten working days. The main concern was that this time requirement would not permit recipients to attract and retain small contractors whose services are essential to the successful implementation of local rehabilitation programs. In arguing that the 10-day limitation is unreasonable, the commenters noted delays of up to 20 days in receiving grant payments from the U.S. Treasury. They also noted that the time required under local procedures to process individual payment requests from contractors would exceed the time that contractors could afford to wait before receiving payment. The commenters recommended alternatives ranging from a 15-day period to no limitation.

—One of the problems cited by the commenters has been resolved through the implementation of the electronic funds transfer payment system which provides for more timely payment of grant payment requests submitted by CDBG recipients. All CDBG recipients now receive grant funds through the Letter of Credit-Treasury Financial Communications System. This system provides for the electronic transmission to the Treasury of a recipient's request for funds and transfer of funds from the Treasury to the recipient's program account, generally within one working day after the request is sent.

Notwithstanding the fact that as a general rule the Treasury will transfer CDBG funds to the recipient within one working day, discussions with local officials and other parties involved in local rehabilitation programs have indicated that the need for escrow accounts still exists. Escrow accounts are needed principally because recipients cannot comply with basic budgetary and accounting controls in connection with the procedure for processing requests for funds under its letter of credit with the U.S. Treasury and still make payments to small contractors on a timely basis.

The Department does not expect local procedures incorporating basic budgetary and accounting controls to be bypassed. Therefore, the use of escrow accounts will still be permitted. However, this final rule continues to limit the period during which funds can be held in the escrow account to 10 working days. Notwithstanding the public comments, the Department believes this period should provide sufficient time for most recipients to process payments under rehabilitation grants or loans after deposit in the escrow account.

2. Twenty-nine commenters expressed concern over the "administrative burdens" of the proposed rule. The commenters indicated that the administrative effort required to track invoices and payments and see that both reach the same point within ten days would not be cost-effective. Recommendations from commenters included the establishment of a threshold amount for applying the limitations contained in the proposed rule, based on annual volume for contractors, or on the number of units being rehabilitated.

—The implementation of an electronic funds transfer payment system should eliminate many of the concerns expressed by the commenters. However, the 10-day limitation will still involve more work on the part of CDBG recipients than would exist without the limitation. As pointed out above, administrative convenience and cost savings to the CDBG recipient are not material to the issue of whether requirements governing cash withdrawals from the Treasury are being met. These requirements

demand that there be an immediate cash need for each cash withdrawal. The limitations contained in this rule are necessary to ensure that funds will not be withdrawn from the Treasury until they are needed. If a recipient could withdraw the full amount of a rehabilitation loan or grant when it is approved, the work associated with submitting payment requests when funds are needed to pay for the actual rehabilitation would be eliminated. (In fact, there would be less work for any CDBG-assisted activity if funds could be withdrawn at the point at which the activity is approved.) Eliminating this work for the recipient, however, would entail significant interest expense for the Federal Government, since funds would be disbursed before they would be if the funds were requested by the recipient on an "as needed" basis.

The requirement limiting the use of escrow accounts to rehabilitation of primarily residential properties with no more than four dwelling units, at § 570.511(a)(1), is intended to establish a reasonable criterion for determining whether rehabilitation work is likely to be carried out by small contractors. Such a criterion is required since it would be infeasible for the Department to make case-by-case determinations of the need for escrow accounts for individual loans and grants. The decision to use four dwelling units as a criterion was based on the Department's experience with projects of this size. The Department has carefully considered the comments and finds no basis to change this requirement.

3. Thirty-three commenters were critical of the requirement at § 570.511(a)(3) that the escrow account must earn interest and the interest earned, less any service charges, must be remitted to HUD. These commenters were principally concerned with the additional administrative burden this provision would create for the recipient and for the financial institution providing the account. Recommendations from commenters on this issue ranged from dropping the interest provision from the regulation entirely to establishing a minimum threshold for the return of interest.

—The Department does not believe that requiring interest to be remitted will be a significant burden, since the information on interest earned should be readily available for depository financial institutions, and the interest is only required to be remitted quarterly.

4. Several commenters expressed concern that recipients would be losing a source of funds as a result of the requirement that interest earned on the account be remitted to HUD. Commenters took the position that interest earned on these escrow accounts is program income which the recipient should be permitted to retain for use on other eligible program purposes.

—Both the Department and the Office of Management and Budget believe that recipients should not be able to benefit from the investment of funds in escrow accounts when the Federal Government is bearing the cost of funding those accounts. In addition, it is the Department's belief that one of the principal reasons why escrow account balances were maintained at such high levels by many recipients in the past was that interest could be earned and retained, thereby augmenting recipients' CDBG funding at the expense of the Treasury. Therefore, the requirement for remitting interest income to HUD is being retained.

5. One commenter suggested that escrow accounts used in connection with rehabilitation activities carried out under revolving loan funds be exempted from this provision because the source of funds for the rehabilitation activity is program income (i.e., payments of principal and interest on loans made from CDBG funds) and interest earned on program income is itself program income, and is not required to be returned to HUD.

—The Department agrees that there is no reason to require the remittance to HUD of all interest earned on escrow accounts used in connection with activities carried out under revolving funds, as defined at § 570.500(b), since the source of funding usually is program income (not grant funds) and, thus, the cost of funding the escrow account is not borne entirely by the Treasury. In addition, program income not held in a revolving fund may be used as the source of funds for escrow accounts. However, to the extent an escrow account is funded with grant funds, the recipient will be expected to maintain an accounting system which will permit the determination of the amount of interest earned which is attributable to the grant funds. Section 570.511(b) has been revised to specify that interest earned on escrow accounts will not be required to be returned to HUD to the extent the interest income is attributable to the investment of program income.

6. One commenter observed that one interest-bearing account would not provide sufficient security, because accounts in financial institutions are normally insured only up to $100,000 unless the funds are deposited into a trust account, and financial institutions cannot pay interest on funds deposited into trust accounts.

—The requirement that only one escrow account be established with a financial institution was intended to facilitate determinations of compliance with the limitations contained in this rule. It was also intended to avoid the internal control problems associated with numerous bank accounts. The Department's position on this matter has not changed.

The Department believes that a depository financial institution should not be allowed to profit unduly from potentially significant deposits of grant funds. If this requirement results in an account with a balance greater than the amount insured, the depository can be required to collaterally secure the account (e.g., with Treasury obligations) to the extent permissible under applicable requirements.

7. Another commenter indicated that small banks don't want to be bothered with small escrow account programs, much less pay interest on them.

—If a financial instituton is willing to provide escrow account services only when it is not required to pay interest on the account, the interest foregone by the recipient is an implicit cost of maintaining the account. The Department believes that it is logical to assume that the financial institution would also provide escrow account services and pay interest on the account, if the cost to the recipient is in the form of an explicit charge. A CDBG recipient may use CDBG funds to pay fees charged by the financial institution for maintaining the escrow account.

8. Twenty-one comments were received on behalf of small cities recipients under the State CDBG program. The commenters noted that these recipients do not receive funds directly from the Treasury, but must request funds from the State and must wait until the State processes their requests.

—Section 570.511 has not been made applicable to the State CDBG program under part 570, subpart I. However, the Treasury cash withdrawal requirements do apply to the State CDBG program. The requirements contained in § 570.511 are intended to ensure that escrow accounts are established and used in accordance with both the spirit and letter of

Treasury requirements governing cash withdrawals. Consequently, § 570.511 may be considered a "safe harbor" with respect to the establishment and use of escrow accounts by State CDGB program recipients. The Department recognizes that the period of time elapsing between the submission by a recipient of a request for funds and the receipt of funds from the State is an additional consideration and would be taken into account by the Department in determining whether the length of time funds are held in escrow accounts is reasonable. Generally, the Department believes that the recipient itself should have the 10-day escrow authority, and a reasonable additional period should be permitted to receive funds from the State.

9. Ten commenters expressed concern over the impact the regulation would have on a recipient's longstanding relationships with local financial institutions. They noted that many financial institutions provide support to the recipient's rehabilitation program in a variety of ways (e.g., loan servicing, credit analysis, lower interest, and other financial services) when a recipient maintains a substantial balance in its escrow account. It is anticipated that the adoption of this rule would harm this relationship, and that the support would diminish.

—The purpose of the establishment and use of escrow accounts is to provide a means of making payments quickly to small rehabilitation contractors. It is not for withdrawing substantial sums before actual need and depositing them with a financial institution in order to obtain services at no charge, or at a reduced charge. If a recipient obtains services from the financial institution with which the escrow account is maintained and the financial institution requires further compensation, it may pay for those services directly from its CDGB funds.

10. A commenter expressed fear that in some instances local title companies that give excellent escrow account services would be prevented from paying or receiving interest, and the relationship would have to be terminated.

—The rule does not require title companies, or other agents, to pay interest. It only requires that funds withdrawn under this provision be deposited into one interest earning account with a financial institution and that the earned interest be remitted to HUD.

11. One commenter stated that communities may wish to establish accounts in each of several local banks to spread the benefits of the programs evenly and establish better working relationships with the banks.

—The Department believes that using one account facilitates the monitoring of compliance with the requirements of this rule, and that the benefits of improved internal control over the account outweigh the advantages to the recipient of spreading accounts among several banks.

12. A commenter requested clarification concerning whether an agency could establish one "holding" account and then have individual escrow accounts for each property owner. Clarification was also requested whether, as a contractor completes work and requests funds, the agency may transfer funds from the holding account to the property owner's escrow account.

—The term "holding account" was not defined by the commenter, but is taken to mean an account similar to a working capital advance account. This rule contemplates an escrow arrangement under which either the recipient, a subrecipient, a public agency, or an escrow agent procured under 24 CFR 85.36 would hold funds for the benefit of the private property owner whose property is the subject of the rehabilitation work. Compliance with the Treasury cash withdrawal requirements depends upon the deposit of CDBG funds into the escrow account being made in connection with an eligible activity—e.g., a rehabilitation loan or grant to a private property owner. Since the use of a holding account would not meet the Treasury requirements (because the disbursement of CDBG funds would not be made to carry out an eligible activity), this arrangement could not be used.

13. Another commenter requested further clarification concerning why a recipient cannot establish separate escrow accounts for individual loans and grants. Still another commenter observed that to utilize a single escrow account for all projects would preclude a project-by-project accounting and audit.

—The rationale for prohibiting separate accounts was explained above; however, the use of one bank account does not preclude detailed accounting for individual projects for which funds were deposited into the escrow account.

14. There were eight commenters who believed that the regulations are narrow and restrictive and penalize all users of the escrow account method of funding rehabilitation. These commenters asserted that instead HUD should enforce properly the current requirements governing the use of these accounts and take action against the violators.

—After an internal audit by the Department's Inspector General indicated that a significant number of CDBG recipients were maintaining large balances in escrow accounts for extended periods, it was determined that the limitations contained in this rule are necessary to ensure compliance with the spirit and letter of the Treasury's and OMB's requirements, and to avoid improper augmentation of CDBG grants. It must be emphasized again that the need for escrow accounts derives at least in part from the inability or unwillingness of recipients to modify their local processing procedures to provide more timely processing of payment requests from small rehabilitation contractors. Although the Department recognizes that escrow accounts may be necessary even when recipients' procedures are efficient, it is essential that escrow account balances be minimized.

15. Several commenters questioned the legality of imposing restrictions upon the use of CDBG funds after a loan closing has occurred and the funds have been contractually obligated to a property owner for rehabilitation. The commenters argued that HUD lacks jurisdiction over the money because, in most cases, the money belongs to the property owner who has given a lien on his or her property to secure the loan and is paying interest on it.

—There are two issues raised by these comments. First, HUD does not intend that this rule be applied to escrow accounts established under existing loans and grants that have already been closed between the grantee and a property owner as of the effective date of this rule. Rather, the requirements of this rule will apply to any new loan or grant closed after the effective date of this rule. To do otherwise would interfere with existing local contractual arrangements which were developed in the absence of this rule. Section 570.511(a) has been revised to specify that the limitations contained therein will apply after the effective date of this rule.

Secondly, however, this rule, upon being implemented, becomes part of the grant-making system to which both the grantee and the homeowner are subject. Having legally adequate notice of the

requirements of this rule by its publication in the **Federal Register**, both grantees and property owners are bound to comply. HUD can conceive of no reason that the grantee's loan or grant forms for rehabilitation agreements cannot be modified to comply with the terms of this rule. It would not be permissible to deposit an entire loan or grant into an escrow account upon approval or closing of the loan or grant, except in the unlikely case of a very small rehabilitation project which is expected to be completed in ten days.

A recipient or its subrecipient may set up the escrow account loan or grant closing process and repayment process in any way it chooses, within the broad parameters permitted by Federal requirements, including this rule. The recipient has considerable flexibility in the wording of the rehabilitation loan or grant contract. Also, the timing of the execution of a promissory note and lien document, and when the borrower must start paying interest and repaying principal under those documents, are all largely discretionary for the locality. For example, the promissory note executed by the property owner could provide for loan advances to an escrow account to be limited to the amount expected to be disbursed to the contractor within 10 business days. The promissory note also could provide that interest would not accrue on the loan advances until they are paid to the contractor, or even until the full amount of the loan has been advanced. In short, if the grantee has concerns over the rights or consideration being given the property owner, the necessary adjustments to the recipient's or its subrecipients' current documents or procedures should be made, but within the limitations of this and other Federal requirements.

16. Four commenters indicated that the consolidation of the old categorical programs into the CDBG program was done for the purpose of allowing recipients maximum local discretion. It was the opinion of some that the rule eliminates the ability of a recipient to design a program attractive to property owners, and that therefore the rule should be dropped. They also commented that localities should have the flexibility to determine when an escrow account is required, and its control should be left to the recipients on a case-by-case basis with only monitoring by HUD.

—One of the Department's principal objectives in formulating CDBG regulations is to carry out the letter and spirit of the enabling legislation (title I, Housing and Community Development Act of 1974, 42 U.S.C. 5301–5320) in a manner that results in the most efficient expenditure of Federal funds and also provides persons involved in the grant program with wide latitude in achieving local goals. The Department believes that this rule balances the cash management requirements of the Federal Government with the legitimate needs of recipients. It should be noted that recipients will be permitted to use escrow accounts despite the fact that the cost of maintaining these cash balances, and HUD monitoring of compliance, will be borne by the Treasury.

17. A commenter took issue with § 570.511(a)(5) regarding eligible costs, indicating that the language was ambiguous and needed clarification. The commenter also indicated that related costs are the responsibility of the homeowner and should be covered in the disbursement of the loan proceeds.

—We have changed the language of this provision to delineate more clearly what costs may be paid with escrowed funds. However, only amounts that are due to the rehabilitation contractor may be paid from the escrowed funds.

18. One comment was received regarding the restriction of the use of escrow accounts to the private contractor. The commenter felt that this restriction on the use of the escrow funds was unfair, and that the rule should be changed to permit a property owner serving as a contractor to use the escrow account funding provision.

—As noted above, the purpose of escrow accounts is to attract and retain small contractors who are necessary to the successful implementation of a local rehabilitation program. The Department finds no basis for concluding that the same financing need exists for property owners performing the rehabilitation work.

19. A commenter took issue with § 570.511(a)(4), which establishes the 10-day limitation, because of the belief that it will complicate negotiations for lump sum drawdown agreements. In the commenter's opinion, if lending institutions are willing to escrow all of the funds they are loaning to a client in combination with city grants or loans, they are going to expect the city also to escrow its share of the total loan package.

—The effect of this rule on lump sum agreements is no longer an issue. Under the provisions of Public Law 101–144, grantees are precluded from establishing new or supplementing existing lump sum drawdown agreements with CDBG funds after September 30, 1989.

20. A commenter indicated that the proposed rule would have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. It will have an impact on all rehabilitation contractors, most of which are small or minority. It would prohibit them from working on rehabilitation properties with more than four units. Also, because it is impossible always to accurately predict expenses, there will be occasions when the agency does not have adequate funds. This might cause a cash flow crisis to the small contractor, who might not survive it.

—As we have stated earlier, the escrow account regulation was instituted solely for the purpose of providing quick payment to small residential rehabilitation contractors. It is HUD's position, based on discussions with experts in the rehabilitation field, as well as the experience of HUD's rehabilitation staff, that the guidelines set forth in the final rule will assist the majority of small contractors involved in residential rehabilitation work. Therefore, the Department does not view this rule as having a significant economic impact on small contractors for purposes of the Regulatory Flexibility Act.

21. Four commenters believed that all funds in a project must be escrowed at the time of closing in order to secure the positions of private lenders. The commenters indicated that the escrow regulations would undermine a recipient's efforts to stretch CDBG dollars by making it virtually impossible to leverage them with private capital, thus discouraging continued private sector involvement in residential rehabilitation.

—The Department does not believe that obtaining participation by private lenders is dependent upon the escrow of the full CDBG loan amount at the time of closing. The Deparment's experience in the Rental Rehabilitation and Section 312 Loan programs demonstrates that it is not necessary to have the full Federal share of the rehabilitation costs escrowed in order to gain private participation.

Revisions Made by the Proposed Rule

Section 570.511(a)(2) has been revised to specify that the escrow account may be maintained by the recipient, a subrecipient as defined in 24 CFR 570.500(c), a public agency designated under 24 CFR 570.501(a), or an agent

under a procurement contract governed by the requirements of 24 CFR 85.36.

Section 570.511(a)(3) has been revised to reflect the revision to § 570.511(a)(2).

Section 570.511(c), which specifies remedies for noncompliance, has been revised to provide that HUD may require the recipient to discontinue the use of escrow accounts in whole or in part.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule reflects and clarifies existing Federal requirements that govern the disbursement of funds from the U.S. Treasury advanced to recipients in this CDBG program. Accordingly, the rule does not alter contract amounts, or significantly affect current contracting practices relating to the use of small business in performing rehabilitation work.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule do not have federalism implications because the rule pertains to changes in fiscal management procedures for payments to contractors and associated management procedures that do not alter the relationship or distribution of powers and responsibilities of the affected parties.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being because it pertains to the fiscal management procedures for payments to contractors associated with the CDBG-funded rehabilitation programs and does not affect the families who may be the beneficiaries of those programs.

This rule is listed as item number 1205 in the Department's Semiannual Agenda of Regulations published April 23, 1990 (55 FR 16226, 16253) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalogue of Federal Domestic Assistance number is 14.218—Community Development Block Grants/Entitlement Grants.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: Housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, the Department is amending 24 CFR part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 570.511, currently a reserved section in subpart J of part 570, is added to read as follows:

§ 570.511 Use of escrow accounts for rehabilitation of privately owned residential property.

(a) *Limitations.* A recipient may withdraw funds from its letter of credit for immediate deposit into an escrow account for use in funding loans and grants for the rehabilitation of privately owned residential property under § 570.202(a)(1). The following additional limitations apply to the use of escrow accounts for residential rehabilitation loans and grants closed after September 7, 1990:

(1) The use of escrow accounts under this section is limited to loans and grants for the rehabilitation of primarily residential properties containing no more than four dwelling units (and accessory neighborhood-scale non-residential space within the same structure, if any, *e.g.*, a store front below a dwelling unit).

(2) An escrow account shall not be used unless the contract between the property owner and the contractor selected to do the rehabilitation work specifically provides that payment to the contractor shall be made through an escrow account maintained by the recipient, by a subrecipient as defined in § 570.500(c), by a public agency designated under § 570.501(a), or by an agent under a procurement contact governed by the requirements of 24 CFR 85.36. No deposit to the escrow account shall be made until after the contract has been executed between the property owner and the rehabilitation contractor.

(3) All funds withdrawn under this section shall be deposited into one interest earning account with a financial institution. Separate bank accounts shall not be established for individual loans and grants.

(4) The amount of funds deposited into an escrow account shall be limited to the amount expected to be disbursed within 10 working days from the date of deposit. If the escrow account, for whatever reason, at any time contains funds exceeding 10 days cash needs, the grantee immediately shall transfer the excess funds to its program account. In the program account, the excess funds shall be treated as funds erroneously drawn in accordance with the requirements of U.S. Treasury Financial Manual, paragraph 6–2075.30.

(5) Funds deposited into an escrow account shall be used only to pay the actual costs of rehabilitation incurred by the owner under the contract with a private contractor. Other eligible costs related to the rehabilitation loan or grant, *e.g.*, the recipient's administrative costs under § 570.206 or rehabilitation services costs under § 570.202(b)(9), are not permissible uses of escrowed funds. Such other eligible rehabilitation costs shall be paid under normal CDBG payment procedures (*e.g.*, from withdrawals of grant funds under the recipient's letter of credit with the Treasury).

(b) *Interest.* Interest earned on escrow accounts established in accordance with this section, less any service charges for the account, shall be remitted to HUD at least quarterly but not more frequently than monthly. Interest earned on escrow accounts is not required to be remitted to HUD to the extent the interest is attributable to the investment of program income.

(c) *Remedies for noncompliance.* If HUD determines that a recipient has failed to use an escrow account in

accordance with this section, HUD may, in addition to imposing any other sanctions provided for under this part, require the recipient to discontinue the use of escrow accounts, in whole or in part.

Dated: July 27, 1990.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 90-18519 Filed 8-7-90; 8:45 am]

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federal register

Wednesday
August 8, 1990

Part V

The President

Proclamation 6166—National Neighborhood Crime Watch Day, 1990

Federal Register
Vol. 55, No. 153
Wednesday, August 8, 1990

Presidential Documents

Title 3—

The President

Proclamation 6166 of August 6, 1990

National Neighborhood Crime Watch Day, 1990

By the President of the United States of America

A Proclamation

Our Nation's law enforcement officials have accepted a great responsibility, one that often entails considerable personal risks and sacrifices. By cooperating with law enforcement personnel in their efforts to fulfill that responsibility, participants in Neighborhood Watch programs are demonstrating the kind of personal responsibility and moral resolve that all Americans must emulate if we are to win the war on drug trafficking and other crime.

Neighborhood Watch programs provide an effective means for concerned citizens to assist law enforcement officials in preventing crime and apprehending its perpetrators. Participants in Neighborhood Watch programs remain vigilant against crime in their communities and notify the police when they observe any suspicious activity. They clean up their local parks and declare them off-limits to gangs and drug dealers. They also keep watch over elderly individuals and other members of their communities who might easily become victims of theft or violence, and they organize special clubs where young people can find wholesome alternatives to delinquency and drug use.

Through their efforts to cooperate with the police and with one another, Americans across the country are reclaiming the safety of their streets and neighborhoods. Individuals of all ages, business leaders, educators, members of the criminal justice system, and elected officials at each level of government have shown that—working together—we can make every community a place where law-abiding citizens are able to live and work, free from fear and danger.

On Tuesday, August 7, 1990, millions of Americans will demonstrate their determination to prevent drug trafficking and other crime by taking part in a "National Night Out." Sponsored by the National Association of Town Watch, this event is designed to strengthen police-community cooperation and increase participation in local crime and drug abuse prevention efforts. During the "National Night Out" as an expression of their resolve to defend the safety of their homes and neighborhoods, concerned citizens will participate in special marches, candlelight vigils, block parties, and events for youth. Many will observe the "National Night Out" simply by turning on their porch lights and by sitting on their porches, lawns, or front steps from 8:00 p.m. to 10:00 p.m.

To encourage all Americans to join with their neighbors in these and other crime prevention activities, the Congress, by Senate Joint Resolution 296, has designated August 7, 1990, as "National Neighborhood Crime Watch Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim August 7, 1990, as National Neighborhood Crime Watch Day. I call upon the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of August, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

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H.J. Res. 577/Pub. L. 101-343

Designating the month of November 1990 as "National American Indian Heritage Month". (Aug. 3, 1990; 104 Stat. 391; 2 pages) Price: $1.00

H.R. 2843/Pub. L. 101-344

To establish the Tumacacori National Historical Park in the State of Arizona. (Aug. 6, 1990; 104 Stat. 393; 2 pages) Price: $1.00