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DEPARTMENT OF DEFENSE

5 CFR Chapter XXVI

32 CFR Part 40

RIN 3209–AA00, 3209–AA04, 3209–AA14, 3209–AA15, and 0790–AF08

Supplemental Standards of Ethical Conduct for Employees of the Department of Defense

AGENCY: Department of Defense (DoD).

ACTION: Interim rule, with request for comments.

SUMMARY: DoD, with the concurrence of the Office of Government Ethics (OGE), is issuing an interim rule which establishes standards of ethical conduct for DoD employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE effective February 3, 1993. The interim rule is a necessary supplement because it addresses ethical issues specific to DoD. The interim rule: (1) Designates separate agency components; (2) establishes additional exceptions to the prohibitions on gifts from outside sources; (3) imposes additional limitations on gifts between DoD employees; (4) requires notification of disqualifications; (5) limits sales to subordinates; (6) requires prior approval for certain outside activities; and (7) establishes an additional disclaimer requirement for certain speeches and writings. DoD is also revising its existing standards of conduct regulation, 32 CFR part 40, to retain the 18 U.S.C. 208(b) waiver provision and to cross-reference to executive branch-wide standards of ethical conduct, financial disclosure and post-employment regulations, and to this supplemental regulation.

DATES: Interim rule effective September 10, 1993. Comments are invited and must be received on or before October 9, 1993.

ADDRESSES: Send comments to the Standard of Conduct Office, Office of General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600.

FOR FURTHER INFORMATION CONTACT: Randi Elizabeth DuFresne, DoD Standards of Conduct Office, (703) 697–5305, FAX (703) 697–1640.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See 57 FR 35006–35067, as corrected at 57 FR 48557 and 52583. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that are applicable to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorized executive branch agencies to publish agency-specific supplemental regulations that are necessary to implement their agency ethics programs. The Department of Defense and OGE have determined that the following interim rule which appears in new 5 CFR chapter XXVI, is necessary in light of DoD's particular programs and operations.

II. Analysis of the Regulations

§ 3601.101 Purpose

Section 3601.101 of the interim rule explains that the regulations contained in the interim rule apply to Department of Defense employees and are supplemental to the executive branch-wide Standards in 5 CFR part 2635. Further, all DoD employees must comply with the executive branch-wide regulations, these supplemental regulations and applicable guidance and procedures implementing both.

§ 3601.102 Designation of Separate Agency Components

5 CFR 2635.202(a) prohibits an employee from soliciting or accepting a gift from a prohibited source. A prohibited source is defined by 5 CFR 2635.203(d) to include a person who has a specific relationship with an employee's agency. For purposes of identifying an employee's agency, 5 CFR 2635.203(a) authorizes an executive department, by supplemental regulation, to designate as separate agencies components of the department that exercise distinct and separate functions. Designations made pursuant to section 2635.203(a) are used also for purposes of applying the prohibition in 5 CFR 2635.807(a) on receipt of compensation for teaching, speaking or writing related to an employee's duties.

Section 3601.102(a) of the interim rule designates 15 components of the Department of Defense as separate agencies. In addition to the Office of the Inspector General and Uniformed Services University of the Health Sciences, these include each of the three military departments and 10 components that are generally recognized as separate agencies within DoD because they exercise separate and distinct functions. As further amplified in § 3601.102(b), DoD employees not employed in one of the 15 designated agencies are to be deemed employees of an agency that consists of all parts of the Department, other than the 15 designated agencies, and that is separate and distinct from each of those agencies. Thus, for example, an Army contractor would be a prohibited source for all employees of the Department of the Army, but not for employees of the Department of the Navy. Neither would that Army contractor be a prohibited source for employees of the Office of the Secretary of Defense (OSD) unless the contractor had a matter pending before OSD or a DoD component other than one of the 15 designated as separate agencies. The separate agency designations made by § 3601.102(a) are used in § 3601.103(a) of this supplemental for purposes of determining agency interest, in § 3901.107 for determining whether an employee must obtain approval for outside employment or business activities with a prohibited source, and in § 3601.108 for purposes of identifying when a DoD employee engaged in teaching, speaking or writing must make the disclaimer required by that section.

§ 3601.103 Additional Exceptions for Gifts From Outside Sources

Section 3601.103 of this interim rule provides two additional exceptions to the prohibitions in 5 CFR 2635.202(a) on gifts from outside sources. It thus supplements the gift exceptions in 5 CFR 2635.204, paragraph (k) of which permits an employee to accept any gift which is specifically authorized by a supplemental agency regulation.

Under § 3601.103(a) of the interim rule, a DoD employee may accept free attendance at certain events sponsored by State or local governments or by qualifying civic organizations when his attendance has been determined to serve the DoD employee's agency's community relations interests. The free attendance must not have been solicited by the employee. The cost of DoD employee's attendance and, when invited, the cost of a spouse's attendance must be provided by the sponsor of the event in accordance with the standard set forth in 5 CFR 2635.204(g)(5).

5 CFR 2635.204 contains two exceptions to the prohibitions on gifts from outside sources that are specifically tailored to permit employees to attend certain events. Free attendance at certain widely attended gatherings is permitted by § 2635.204(g)(2) and, under § 2635.204(h), employees may accept certain social invitations from persons who are not prohibited sources. While these two exceptions permit free attendance at a wide range of events, DoD has determined that they do not provide enough flexibility to meet its community relations needs. Largely unique to DoD, these community relations needs arise from DoD's system of installations located throughout the country. Many of these installations are major factors in the local communities where they are located and a reasonable degree of social interchange between DoD personnel and members of the local community is mutually beneficial.

By virtue of utility and other arrangements for installation support services, many State and local governments are prohibited sources for DoD personnel. The commanding officer of a local installation, therefore, may be unable to avail himself of the exception at CFR 2635.204(h) to accept an invitation to attend a local government-sponsored luncheon for local community leaders. Although the particular luncheon may fail to rise to the level of a widely attended gathering, DoD views the commanding officer's attendance at this sort of event as appropriate to meet its community relations interests. The exception at § 3601.103(a) is intended to permit attendance at events of this nature. As used in this section, the term "event" is not intended to permit one-on-one entertainment of a DoD employee, as in the case of a local official taking a military officer and his spouse out to dinner at the expense of the local government. Where such entertainment is provided by a prohibited source or because of the DoD employee's official position, it may be accepted only if covered by an exception contained in 5 CFR 2635.204.

Section 3601.103(b) of the interim rule supplements the authority of 5 CFR 2635.204(d) for acceptance of certain awards for meritorious public service and achievement. While § 2635.204(d) will permit employees to accept many scholarships and grants awarded on the basis of merit, DoD has determined that it will not always permit DoD employees and their dependents to accept many scholarships and grants under programs that have been tailored specifically for DoD personnel. As in the case of a one-time scholarship for DoD personnel who served in Operation Desert Storm, not all such scholarships are funded to ensure continuation on a regular basis nor are they necessarily to be awarded on the basis of merit. Section 3601.103(b)(1) incorporates many of the conditions found in 5 CFR 2635.204(d), but does not limit acceptance to those scholarships and grants given for meritorious public service or meritorious achievement. Section 3601.103(b)(2) permits even one-time scholarships and grants when awarded under written standards approved by the Secretary concerned.

§ 3601.104 Additional Limitations on Gifts Between DoD Employees

Section 3601.104 supplements subpart C of 5 CFR by adding two provisions that limit use of the exceptions in 5 CFR 2635.305 regarding certain gifts between employees.

Under 5 CFR 2635.302 a DoD employee is generally prohibited from accepting a gift from an employee receiving less pay than himself and may not donate toward a gift for an official superior. As an exception to this general prohibition, § 2635.304(b) permits an employee to accept an appropriate gift on certain special, infrequent occasions, such as retirement or marriage. In recognition of such occasions, § 2635.304(c)(1) also permits employees to contribute nominal amounts for an appropriate group gift to a superior and it permits a superior to accept an appropriate group gift, even though a subordinate may have contributed to its purchase. Within DoD, commanding officers and other supervisors may have authority over hundreds, if not thousands, of employees and enlisted personnel. The very size of some DoD components and offices, on occasion, has meant that small amounts collected from subordinates have been sufficient, in the aggregate, to finance gifts that are lavish and beyond what would meet the requirement in 5 CFR 2635.304(b) that the gift be appropriate to the occasion.

To ensure that group gifts are appropriate to the special, infrequent occasions for which they are given, § 3601.104(a) limits to $300 the value of a gift or gifts an employee may accept from any single donating group if the employee knows or has reason to know that one or more of the persons donating to the gift is his subordinate. In addition to those items that are excluded from the definition of a gift by 5 CFR 2635.203(b), this limitation does not apply to the cost of food, refreshments and entertainment provided to the employee and his personal guests at an event, such as a retirement party. The section provides, however, that the value of gifts from two or more groups will be aggregated and treated as gifts from a single group, and thus subject to a single $300 limitation, if the recipient knows or has reason to know that any subordinate is a member of more than one such group. This supplemental regulation places the obligation to decline the gift on the employee who is the recipient of the gift, not on the subordinate who may have contributed.

Nothing in § 3601.104(a) places a limitation on the number of group gifts that may be accepted by an employee to mark the special, infrequent occasions permitted by 5 CFR 2635.304(b). To help ensure, however, that the number of group gifts given is not compounded by individual contributions that fail to meet the requirement in 5 CFR 2635.304(c) that they be nominal in amount, § 3601.104(b) of the interim rule specifies that an employee may not contribute more than $10 to a group gift for a superior. It excludes from the $10 limitation nominal amounts separately and voluntarily contributed for food, refreshments and entertainment for the superior, the superior's personal guests and others who attend the event.

§ 3601.105 Standard for Accomplishing Disqualification

Section 3601.105 of the interim rule supplements the standards for disqualification contained in 5 CFR part 2635. Under § 2635.402(c) of this title, it is the employee's obligation to disqualify from participation in matters affecting his own financial interests or those of persons whose interests are imputed to him under 18 U.S.C. 208(a). Under 5 CFR 2635.502(e) and 2635.604 the same is true when an employee is required to disqualify to avoid an appearance of lack of impartiality or to avoid participating in a matter affecting the financial interests of a prospective employer. Under each of these sections, the executive branch-wide Standards generally permit disqualification to be accomplished simply by not

participating in the matter, although each provides that the disqualified employee should notify the person responsible for his assignment.

For a number of years, it has been the practice throughout DoD to require written notice of employee disqualifications. Because of the problems of managing its vast workforce, DoD has determined that it is necessary to the success of its mission, and to the success of its ethics program, to continue its procedures for written notice of disqualifications. DoD recognizes the problems noted by the Office of Government Ethics in adopting a requirement for written notice of disqualification on an executive branch-wide basis. See 57 FR 35024. It is not DoD's purpose to impose an overly technical requirement that would result in disciplining an employee for failure to provide written notice by some arbitrary deadline. Thus, the notice requirement imposed by § 3601.105 is phrased to give an employee flexibility in determining precisely when he will give notice of disqualification from a matter to which he has been assigned. Notice is to be given when the employee determines that he will not participate in the matter. In no way does this notice requirement affect the employee's primary obligation to not participate in the matter.

§ 3601.106 Limitation on Solicited Sales

5 CFR part 2635 prohibits an employee from using public office for private gain, but contains no specific prohibition on sales to junior personnel where the sale price is fair and does not result in a gift to the superior. Because of its command structure, senior personnel within DoD exert a degree of authority over junior personnel that exceeds that present in most civilian agencies. DoD standards of conduct regulations have long contained a prohibition on sales to subordinates and § 3601.106 of this interim rule is a restatement, with minor modifications, of that prohibition. It prohibits a DoD employee from soliciting or making solicited sales to DoD personnel who are junior in rank, grade or position or to the family members of such personnel, regardless of whether the solicitation or sale takes place on or off duty. The section specifically permits employees to post sales notices on DoD bulletin boards provided for those purposes. And, in the absence of coercion or intimidation, it permits sale or lease of the employee's own personal or real property and sales made by an employee during outside employment in a retail establishment.

§ 3601.107 Prior Approval for Outside Employment and Business Activities

When it is determined that such a requirement is necessary or desirable for the purpose of administering its ethics program, 5 CFR 2635.803 provides that an agency may, by supplemental regulation, require its employees to obtain prior approval before engaging in outside employment or other outside activities. To ensure that the outside activities of its many employees do not violate the executive branch-wide standards in 5 CFR 2635, any provision of these supplemental regulations, or any other provision of law or regulation, DoD has determined that it is necessary to the successful administration of its ethics program to require employees to obtain prior written approval before engaging in a business activity or compensated outside employment with a prohibited source. Section 3601.107(a) of the interim rule imposes a requirement to obtain approval before engaging in such activities and contains definitions of the terms "business activity," "employment," and "prohibited source" used in stating that requirement.

To ensure that § 3601.107 is not itself construed as authority to deny permission to engage in any outside activity, it includes a sentence specifying that approval will be granted unless the activity is expected to involve conduct prohibited by statute or regulation. Where a determination can be made that those activities are not likely to be prohibited, § 3601.107(b) delegates to the designated agency ethics official or his designee authority to issue written notice exempting categories of business activities or employment from the requirement for prior approval.

§ 3601.108 Disclaimer for Speeches and Writings Devoted to Agency Matters

Under 5 CFR 2635.807(a) an employee may not accept compensation for, but otherwise may engage in outside teaching, speaking or writing related to his official duties. In connection with such activities, 5 CFR 2635.807(b) prohibits the use of an employee's official title or position to identify the DoD employee in connection with the outside teaching, speaking or writing activity, except when given as one of several biographical details or, when accompanied by a appropriate disclaimer, in connection with an article published in a scientific or professional journal. Nothing in the executive branch-wide Standards, however, limits an employee's use of a military rank to identify himself in connection with the teaching, speaking or writing activity.

Even though not required to do so by 5 CFR 2635.807(b), § 3601.108 of the interim rule requires an employee to make an appropriate disclaimer when any reference is made to the DoD employee's rank, or to his official title or position, in connection with teaching, speaking or writing when the subject matter deals in significant part with an ongoing or announced policy, program or operation of the DoD employee's agency. This supplement to the standards in 5 CFR 2635.807(b) has been determined by DoD to be necessary to avoid any suggestion that a DoD employee is speaking on behalf of his agency or otherwise presenting an agency position. For the purpose of determining whether subject matter deals with a policy, program or operation of the DoD employee's agency, § 3601.108 incorporates the separate agency designations made by § 3601.102 of the interim rule. It also contains a requirement to ensure that the disclaimer is given prominence appropriate to the activity.

32 CFR Part 40 Standards of Conduct

32 CFR part 40 is revised to remove standards of conduct superseded by 5 CFR part 2635. Section 40.1 retains 18 U.S.C. 208(b) waivers for DoD, the Army, the Navy, and the Air Force. Sections 40.2 through 40.7 cross-reference to OGE regulations.

III. Matters of Regulatory Procedure

Administrative Procedure Act

As the Secretary of Defense, I have found good cause, pursuant to 5 U.S.C. 553(b), for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to these interim rules. It is important to a smooth transition from DoD's prior ethics rules to the new executive branch-wide Standards that these rule-making actions take place as soon as possible. Furthermore, this rule-making is related to DoD's organization, procedure and practice. As an interim rule, there is provision for a 30-day public comment period. DoD will review comments received within the comment period and will consider modifications that appear appropriate in adopting these rules as final, with the concurrence of OGE.

Executive Order 12291, Federal Regulation

As the Secretary of Defense, I have determined that this is not a major rule

as defined in section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

As the Secretary of Defense, I have determined under the regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule will not have a significant economic impact on a substantial number of small entities because it affects only DoD employees.

Paperwork Reduction Act

As the Secretary of Defense, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rule does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

5 CFR Part 3601

Conflict of interests, Ethics standards, Executive branch standards of conduct, Government employees.

32 CFR Part 40

Conflict of interests, Ethics standards, Executive branch standards of conduct, Government employees, Financial disclosure, Honoraria, Post-employment.

Dated: August 30, 1993.

Les Aspin,

Secretary of Defense.

Approved: September 3, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department of Defense, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 32, chapter I, part 40 of the Code of Federal Regulations as follows:

Title 5—[Amended]

1. A new chapter XXVI, consisting of part 3601, is added to title 5 of the Code of Federal Regulations to read as follows:

CHAPTER XXVI—DEPARTMENT OF DEFENSE

PART 3601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Sec.
3601.101 Purpose.
3601.102 Designation of separate agency components.
3601.103 Additional exceptions for gifts from outside sources.
3601.104 Additional limitations on gifts between DoD employees.
3601.105 Standards for accomplishing disqualification.
3601.106 Limitation on solicited sales.
3601.107 Prior approval for outside employment and business activities.
3601.108 Disclaimer for speeches and writing devoted to agency matters.

Authority: 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.204(k), 2635.803.

§ 3601.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Defense (DoD) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. DoD employees are required to comply with part 2635, this part, and implementing guidance and procedures.

§ 3601.102 Designation of separate agency components.

(a) Pursuant to 5 CFR 2635.203(a), each of the following components of DoD is designated as a separate agency for purposes of the regulations in subpart B of 5 CFR part 2635 governing gifts from outside sources and 5 CFR 2635.807 governing teaching, speaking and writing:

(1) Department of the Army;
(2) Department of the Navy;
(3) Department of the Air Force;
(4) Defense Commissary Agency;
(5) Defense Contract Audit Agency;
(6) Defense Finance and Accounting Service;
(7) Defense Information Systems Agency;
(8) Defense Intelligence Agency;
(9) Defense Investigative Service;
(10) Defense Logistics Agency;
(11) Defense Mapping Agency;
(12) Defense Nuclear Agency;
(13) National Security Agency;
(14) Office of the Inspector General; and
(15) Uniformed Services University of the Health Sciences.

(b) Employees of DoD components not designated as separate agencies, including employees of the Office of the Secretary of Defense, will be treated as employees of DoD which shall be treated as a single agency that is separate from the above listed agencies for purposes of determining whether the donor of a gift is a prohibited source under 5 CFR 2635.203(d) and for identifying the DoD employee's agency under 5 CFR 2635.807 governing teaching, speaking and writing.

§ 3601.103 Additional exceptions for gifts from outside sources.

In addition to the gifts which come within the exceptions set forth in 5 CFR 2635.204, and subject to all provisions of 5 CFR 2635.201 through 2635.205, a DoD employee may accept gifts from outside sources otherwise prohibited by 5 CFR 2635.202(a) as follows:

(a) *Events sponsored by States, local governments or civic organizations.* A DoD employee may accept a sponsor's unsolicited gift of free attendance for himself and an accompanying spouse at an event sponsored by a State or local government or by a civic organization exempt from taxation under 26 U.S.C. 501(c)(4) when:

(1) The agency designee has determined that the community relations interests of the agency will be served by the DoD employee's attendance;

(2) The cost of the DoD employee's and the spouse's attendance is provided by the sponsor in accordance with 5 CFR 2635.204(g)(5); and

(3) The gift of free attendance meets the definition in 5 CFR 2635.204(g)(4).

(b) *Scholarships and grants.* A DoD employee, or the dependent of a DoD employee, may accept an educational scholarship or grant from an entity that does not have interests that may be substantially affected by the performance or non-performance of the involved DoD employee's official duties, or from an association or similar entity that does not have a majority of members with such interests, if the designated agency ethics official or designee determines that:

(1) The scholarship or grant is made as part of an established program of grants or awards that is funded, wholly or in part, to ensure its continuation on a regular basis and under which recipients are selected pursuant to written standards; or

(2) The scholarship or grant is established for the benefit of DoD employees, or the dependents of DoD employees, and recipients are selected pursuant to written standards approved by the Secretary of Defense or, where the scholarship or grant is available only to military members or their dependents, by the Secretary of the military department concerned.

§ 3601.104 Additional limitations on gifts between DoD employees.

The following limitations shall apply to gifts from groups of DoD employees that include a subordinate and to voluntary contributions to gifts for superiors permitted under 5 CFR 2635.304(c)(1):

(a) *Gifts from a group that includes a subordinate.* Regardless of the number of DoD employees contributing to a gift on a special, infrequent occasion as permitted by 5 CFR 2635.304(c)(1), a DoD employee may not accept a gift or gifts from a donating group if the market value exceeds an aggregate of $300 and if the DoD employee knows or has reason to know that any member of the donating group is his subordinate.

(1) The cost of items excluded from the definition of a gift by 5 CFR 2635.203(b) and the cost of food, refreshments and entertainment provided to the DoD employee and his personal guests to mark the occasion for which the gift is given shall not be included in determining whether the value of a gift or gifts exceeds the $300 aggregate limit.

(2) The value of a gift or gifts from two or more donating groups shall be aggregated and shall be considered to be from a single donating group if the DoD employee offered the gift knows or has reason to know that an individual who is his subordinate is a member of more than one of the donating groups.

(b) *Voluntary contribution.* For purposes of 5 CFR 2635.304(c)(1), the nominal amount of a voluntary contribution that a DoD employee may solicit from another DoD employee for a group gift to the contributing DoD employee's superior for any special, infrequent occasion shall not exceed $10. A voluntary contribution of a nominal amount for food, refreshments and entertainment for the superior, the personal guests of the superior and other attendees at an event to mark the occasion for which a group gift is given may be solicited as a separate, voluntary contribution not subject to the $10 limit.

§ 3601.105 Standard for accomplishing disqualification.

(a) *Disqualifying financial interests.* A DoD employee who is required, in accordance with 5 CFR 2635.402(c), to disqualify himself from participation in a particular matter to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.4029(c) (1) and (2), provide written notice of disqualification to his supervisor upon determining that he will not participate in the matter.

(b) *Disqualification to ensure impartiality.* A DoD employee who is required, in accordance with 5 CFR 2635.502(e), to disqualify himself from participation in a particular matter involving specific parties to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.502(e) (1) and (2), provide written notice of disqualification to his supervisor upon determining that he will not participate in the matter.

(c) *Disqualification from matter effecting prospective employees.* A DoD employee who is required, in accordance with 5 CFR 2635.604(a), to disqualify himself from participation in a particular matter to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.604 (b) and (c), provide written notice of disqualification to his supervisor upon determining that he will not participate in the matter.

(d) *Withdrawal of notification.* A DoD employee may withdraw written notice under paragraphs (a), (b) or (c) of this section upon deciding that disqualification from participation in the matter is no longer required.

§ 3601.106 Limitation on solicited sales.

A DoD employee shall not knowingly solicit or make solicited sales to DoD personnel who are junior in rank, grade or position, or to the family members of such personnel, on or off duty. In the absence of coercion or intimidation, this does not prohibit the sale or lease of a DoD employee's noncommercial personal or real property or commercial sales solicited and made in a retail establishment during off-duty employment. The posting of an advertisement in accordance with Federal building management policies does not constitute solicitation for purposes of this section.

§ 3601.107 Prior approval for outside employment and business activities.

(a) A DoD employee, other than a special Government employee, who is required to file a financial disclosure report (SF 450 or SF 278) shall obtain written approval from the agency designee before engaging in a business activity or compensated outside employment with a prohibited source, unless general approval has been given in accordance with paragraph (b) of this section. Approval shall be granted unless a determination is made that the business activity or compensated outside employment is expected to involve conduct prohibited by statute or regulation. For purposes of this section, the following definitions apply:

(1) *Business activity.* Any business, contractual or other financial relationship not involving the provision of personal services by the DoD employee. It does not include a routine commercial transaction or the purchase of an asset or interest, such as common stock, that is available to the general public;

(2) *Employment.* Any form of non-Federal employment or business relationship involving the provision of personal services by the DoD employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner or trustee; and

(3) *Prohibited source.* See 5 CFR 2635.203(d) (modified by the separate DoD component agency designations in § 3601.102 of this part).

(b) The DoD component designated agency ethics official or designee may, by a written notice, exempt categories of business activities or employment from the requirement of paragraph (a) of this section, for prior approval based on a determination that business activities or employment within those categories would generally be approved and are not likely to involve conduct prohibited by statute or regulation.

§ 3601.108 Disclaimer for speeches and writings devoted to agency matters.

A DoD employee who uses or permits the use of his military rank or who includes or permits the inclusion of his title or position as one of several biographical details given to identify himself in connection with teaching, speaking or writing, in accordance with 5 CFR 2635.807(b), shall make a disclaimer if the subject of the teaching, speaking or writing deals in significant part with any ongoing or announced policy, program or operation of the DoD employee's agency, as defined in § 3601.102, and the DoD employee has not been authorized by appropriate agency authority to present that material as the agency's position. The disclaimer shall be made as follows:

(a) The required disclaimer shall expressly state that the views presented are those of the speaker or author and do not necessarily represent the views of DoD or its components.

(b) Where a disclaimer is required for an article, book or other writing, the disclaimer will be printed in a reasonably prominent position in the writing itself.

(c) Where a disclaimer is required for a speech or other oral presentation, the disclaimer may be given orally provided it is given at the beginning of the oral presentation.

Title 32—National Defense

CHAPTER I—DEPARTMENT OF DEFENSE

2. Part 40 of 32 CFR chapter I is revised to read as follows:

PART 40—STANDARDS OF CONDUCT

Sec.
40.1 18 U.S.C. 208(b) waivers.
40.2 Cross-reference to Standards of Ethical Conduct for Employees of the Executive Branch.
40.3 Cross-reference to Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees.
40.4 Cross-reference to Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria.
40.5 Cross-reference to Regulations Concerning Post-Employment Conflict of Interest.
40.6 Cross-reference to Office of Government Ethics and Executive Agency Ethics Program Responsibilities.
40.7 Cross-reference to Post-Employment Conflict of Interest Restrictions.

Authority: 5 U.S.C. 7301.

§ 40.1 18 U.S.C. 208(b) waivers.

Under 18 U.S.C. 208(b) categories of financial interests may be made non-disqualifying for purposes of 18 U.S.C. 208(a) by a general regulation published in the **Federal Register**. Shares of a widely held, diversified mutual fund or regulated investment company have been exempted by a general regulation as being too remote or inconsequential to affect the integrity of Government personnel.

§ 40.2 Cross-reference to Standards of Ethical Conduct for Employees of the Executive Branch.

DoD employees should refer to the Office of Government Ethics (OGE) regulation, Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and the Department of Defense (DoD) regulation that supplements the OGE regulation, 5 CFR 3601.101, for standards of conduct provisions, including standards for gifts from outside sources, gifts between employees, conflicting financial interests, impartiality in performing official duties, seeking other employment, misuse of position, and outside activities.

§ 40.3 Cross-reference to Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees.

DoD employees should refer to the OGE regulation, Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees, 5 CFR part 2634, for financial disclosure provisions.

§ 40.4 Cross-reference to Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria.

DoD employees should refer to the OGE regulation, Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria, 5 CFR part 2636, for provisions on outside employment and honoraria.

§ 40.5 Cross-reference to Regulations Concerning Post-Employment Conflict of Interest.

DoD employees and former DoD employees should refer to the OGE regulation, Regulations Concerning Post-Employment Conflict of Interest, 5 CFR part 2637, for provisions on post-employment applicable to those who left DoD employment prior to January 1, 1991.

§ 40.6 Cross-reference to Office of Government Ethics and Executive Agency Ethics Program Responsibilities.

DoD employees should refer to the OGE regulation, Office of Government Ethics and Executive Agency Ethics Program Responsibilities, 5 CFR part 2638, for provisions establishing executive branch ethics programs, including ethics training programs.

§ 40.7 Cross-reference to Post-Employment Conflict of Interest Restrictions.

DoD employees and former DoD employees should refer the to OGE regulation, Post-Employment Conflict of Interest Restrictions, 5 CFR part 2641, for provisions on post-employment applicable to those who left DoD employment on or after January 1, 1991.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 91–006I]

RIN 0583–AB34

Nutrition Labeling of Meat and Poultry Products; Technical Amendments

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule; technical amendments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its final nutrition labeling regulations, which were published in the **Federal Register** on January 6, 1993 (58 FR 632). FSIS is taking this action to improve the clarity and accuracy of the regulations, and to provide regulations that parallel the Food and Drug Administration's (FDA) nutrition labeling regulations to the maximum extent possible.

DATES: Interim rule effective date is July 6, 1994; comments must be received on or before October 12, 1993.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments, as provided by the Poultry Products Inspection Act, should be directed to Mr. Charles Edwards, (202) 254–2565. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 254–2565.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this interim final rule. Written comments should be sent to the Policy Office and refer to Docket No. 91–006I. Any person desiring an opportunity for an oral presentation of views, as provided by the Poultry Products Inspection Act, should make such request to Mr. Charles Edwards, so that arrangements can be made for such views to be presented. A transcript will be made of all views orally presented. All comments submitted in response to this interim final rule will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

On January 6, 1993, FSIS published in the **Federal Register** (58 FR 632) final regulations on nutrition labeling for meat and poultry products. FSIS's nutrition labeling regulations parallel, to the extent possible at that time, FDA's nutrition labeling regulations promulgated under the Nutrition Labeling and Education Act. FSIS published its final regulations on nutrition labeling simultaneously with FDA's publication.

After the publication of FSIS's final regulations on nutrition labeling, FSIS received several comments from various interested parties contending that portions of FSIS's regulations were

unclear, contained technical, unintended consequences in a specific provision, or were not parallel to FDA's nutrition labeling regulations. Those portions included provisions related to: (a) Providing nutrition labeling by alternate means for packages that have a total surface area available to bear labeling of less than 12 square inches; (b) the saturated fat criterion for the "lean" definition; and (c) the use of nutrient content claims on infant and toddler foods.

After considering these comments and conducting an in-depth review of FDA's final nutrition labeling regulations, FSIS believes that its final regulations are inconsistent with FDA's regulations in certain areas where uniformity should exist. FSIS has also determined that several provisions were inadvertently omitted in its final regulations.

Accordingly, FSIS is issuing technical amendments to its nutrition labeling regulations to provide more well-defined regulations that reflect accuracy and clarity regarding the nutrition labeling of meat and poultry products. The amendments consist of clarifications that are essential to understanding and complying with published provisions, changes that are necessary to avoid technical, unintentional consequences in specific provisions, and additional provisions that were inadvertently omitted.

Technical Amendments

Exemptions

In its final nutrition labeling regulations, FSIS exempted individually wrapped packages of less than ½ ounce net weight from nutrition labeling requirements. This decision was based on providing consistency with the Agency's current net weight exemption. In addition, comments on the proposed rule did not reveal a consensus on the definition of a small package. FSIS has since received and evaluated a number of requests to allow for nutrition labeling to be provided by alternate means for packages that have a total surface area available to bear labeling of less than 12 square inches. FSIS believes these requests have merit, and recognizes the need for incorporating sufficient flexibility. FSIS agrees with the comments that alternate means of providing nutrition labeling should be in harmony with FDA. Accordingly, FSIS is adding provisions at § 317.400(d) and § 381.500(d) of the regulations to permit manufacturers to provide an address or telephone number on the package for consumers to write or call for nutrition information, provided that the labels for these products bear no nutrition claims or nutrition information. These provisions do not affect the exemption for individually wrapped packages of less than ½ ounce net weight.

FSIS inadvertently omitted a small business exemption provision from its final nutrition labeling regulations. FSIS received numerous comments on its supplemental proposed rule (57 FR 10298). Commenters stated that the fluctuation of business activity for small firms (i.e., production of specialty foods, regional and seasonal foods, a large number of product lines and low volume sales per product) should be considered. Additionally, the commenters stated that products are constantly being created and removed to account for seasonal gift buying, and product variety is often a primary selling point. In many cases, survival of the small firm is based on adding product lines, rather than on increasing the volume on existing lines. Based on these comments received in response to its supplemental proposed rule and comments received at the three small business exemption public forums, FSIS has determined that the calculation of poundage will be based on the most recent 2-year average of business activity. Although this was addressed in the preamble to the January 6, 1993, final rule, FSIS omitted the regulatory provision reflecting this determination. Therefore, FSIS is adding a provision to § 317.400(a) and § 381.500(a) of the regulations stating that the calculation of poundage shall be based on the most recent 2-year average of business activity.

Nutrition Label Content

In its final nutrition labeling regulations, FSIS used the term "insignificant amount" in prescribing conditions when nutrition information may be presented in a simplified format. The term "insignificant amount" is defined as that amount that may be rounded to zero in nutrition labeling, except that for total carbohydrate, dietary fiber, and protein, it is an amount less than 1 gram. The definition of an insignificant amount for calories is less than 5 calories. Because 1 gram of each of these three nutrients yields 4 or less calories, a 1-gram amount of each yields an insignificant amount of calories. FSIS has determined that sugars is another nutrient with a caloric contribution which is consistent with that for total carbohydrate, dietary fiber, and protein. One gram of sugars yields 4 calories. Therefore, when used in reference to the simplified format, an insignificant amount of sugars is that amount which is less than 1 gram. FSIS is amending §§ 317.309(g)(1) and 381.409(g)(1) of the regulations by revising the definition of insignificant amount to indicate that an insignificant amount of sugars is an amount less than 1 gram.

FSIS made reference in §§ 317.345(a)(1) and 381.445(a)(1) of the regulations to a retailer providing nutrition information on the label of single-ingredient, raw products without referring to a manufacturer. As stated in the preamble to the final rule, FSIS makes no distinction between products packaged in official establishments and those packaged at retail level. The Agency does not believe that the site where a product is packaged and labeled has any relevance to its inclusion or exclusion from the voluntary program. However, to clarify any misunderstanding regarding these provisions, FSIS is modifying §§ 317.345(a)(1) and 381.445(a)(1) of the regulations to include reference to a manufacturer.

Reference Amounts

In §§ 317.312(b) and 381.412(b) of the regulations, Table 1.—Reference Amounts Customarily Consumed Per Eating Occasion—Infant and Toddler Foods, FSIS inadvertently omitted product categories for plain meats and plain poultry for infants and meat sticks and poultry sticks for toddlers. In 21 CFR 101.12(b), FDA included a product category for eggs/egg yolks, ready-to-serve, for infants and toddlers with a reference amount of 55 grams. Egg yolks are used in a manner similar to the plain meat and poultry items in the infant diet. Also, the 2.5 ounce single-serve jar used for egg yolks, plain meats, plain poultry, meat sticks, and poultry sticks contains 63 grams of egg yolk, 71 grams of meat or poultry, and 71 grams of meat or poultry sticks. Because the 2.5 ounce jar is currently the single-serve unit for baby and toddler plain meat and poultry food products, a 55-gram reference amount would be consistent with FDA's reference amount established for egg yolks and consistent with the single-serving container definition. Additionally, a 55-gram reference amount which was the average amount of frankfurter eaten per occasion by 1–2 and 3–5 year olds, based on data from the 1977–78 Nationwide Food Consumption Survey, is also appropriate for meat sticks and poultry sticks. FSIS is amending Table 1 to include product categories for plain meats and meat sticks and plain poultry and poultry sticks with reference amounts of "55 g."

In §§ 317.312(b) and 381.412(b) of the regulations, Table 2.—Reference

Amounts Customarily Consumed Per Eating Occasion—General Food Supply, FSIS erred by listing meat lasagna and poultry lasagna as examples under the product category of mixed dishes not measurable with a cup. Based on food consumption data, these food products belong in the category of mixed dishes measurable with a cup. FSIS fully intended to harmonize its product categories with similar FDA categories. FDA lists vegetable lasagna as an example of a mixed dish measurable with a cup in its extended list of products for each product category, which is referenced in footnote 4 of 21 CFR 101.12(b), Table 2. FSIS is moving the lasagna examples to the category of mixed dishes measurable with a cup and also adding meat and poultry filled pasta as further examples of products in this category.

For purposes of clarification and to more fully harmonize with FDA requirements, FSIS is revising footnote 4 to Table 2 in §§ 317.312(b) and 381.412(b) of the regulations by adding the following words at the end: "except for products in which both the solids and liquids are customarily consumed."

Nutrient Content Claims

FSIS's final nutrition labeling regulations define the term "lean" with a saturated fat criterion. FSIS has received a comment suggesting a change in the saturated fat criterion for the "lean" definition to reflect the change in the saturated fat definition. The comment stated that the saturated fat criterion has become largely unrealistic and virtually unobtainable for many meal-type products. A number of products that qualified for the "lean" definition, as originally proposed, no longer qualify due to the change in definition for saturated fat. The comment stated that this situation is particularly true of meal-type products containing dairy-based ingredients.

In its proposed rule published in the **Federal Register** on November 27, 1991 (56 FR 60302), FSIS proposed to adopt FDA's definition of saturated fat as the sum of lauric, myristic, palmitic, and stearic acids. FDA, in its proposed rule also published in the **Federal Register** on November 27, 1991 (56 FR 60366) specifically required comments to which fatty acids should be included or excluded from the definition. FSIS and FDA received a number of comments supporting the fact that there was substantial controversy regarding the inclusion or exclusion of specific fatty acids in the definition. Based on comments, FSIS and FDA determined that a chemical definition for saturated fat was appropriate for various reasons described in FDA's final regulation. Therefore, the final regulations of both agencies define saturated fat as the sum of all fatty acids containing no double bonds.

FSIS is aware that the modification to the saturated fat definition may possibly impact a product's ability to qualify for the "lean" definition. Meat and poultry meal-type products containing dairy ingredients, such as cheese and cream-based sauces, which met the "lean" criteria based on the proposed definition of saturated fat may be unable to meet criteria based on the definition of saturated fat in the final regulation. The Agency believes it is necessary to modify the "lean" definition to reflect the change in the saturated fat definition. Inclusion of all fatty acids with no double bonds in the definition of saturated fat can inflate the level of saturated fat as previously defined by approximately 15 percent. To offset this unintended effect, FSIS will increase the saturated fat criterion for the "lean" definition from less than 4 grams to 4.5 or less grams.

FSIS's cross-reference to 21 CFR 101.13 (a) and (b) caused confusion concerning the use of nutrient content claims on infant and toddler foods. FSIS received requests to clarify the provisions concerning nutrient content claims on foods for infants and children under 2 years of age. Sections 317.313(a) and 381.413(a) of the regulations inadvertently contained the language "except that nutrient content claims may not be made on products intended specifically for use by infants and toddlers less than 2 years of age." This language was used in the proposal and inadvertently repeated in the final regulation. This section was modified in FDA's final regulation. In response to comments, FDA reconsidered the propriety of nutrient content claims on foods specifically intended for infants and children less than 2 years of age. FDA believed that the complete prohibition of nutrient content claims on foods for infants and children under 2 years of age may have been overly broad. FSIS agrees with this position. Therefore, FSIS is changing §§ 317.313(a) and 381.413(a) of the regulations to omit the following language "except that nutrient content claims may not be made on products intended specifically for use by infants and toddlers less than 2 years of age."

It was FSIS's intent to allow percentage labeling of vitamins and minerals on foods intended for use by infants and children less than 2 years of age, as provided for by FDA in 21 CFR 101.13(q)(3). Therefore, FSIS is amending §§ 317.313(q)(3) and 381.413(q)(3) of the regulations to allow percentage labeling of vitamin and minerals on such foods.

In cross-referencing FDA's final regulation, FSIS inadvertently omitted paragraphs (e) and (f) as contained in 21 CFR 101.66, label statements relating to usefulness in reducing or maintaining body weight. Generally, for meat and poultry products, "sugar free" claims are not particularly relevant. However, to harmonize with FDA regulations, FSIS has added provisions regarding the labeling of products as "sugar free" and "no added sugar," and the use of label terms suggesting low calorie or reduced calorie foods. FSIS is amending §§ 317.380 and 381.480 of the regulations to incorporate the provisions of 21 CFR 101.66 (e) and (f).

Need for Interim Final Rule

FSIS has determined that issuing these amendments as a proposed rule is unnecessary, time-consuming, and contrary to the public interest, and, thus, is issuing these amendments as an interim final rule. The Administrative Procedure Act provides for notice and opportunity for public comment on proposed Agency rules to ensure meaningful public input into Agency rules that affect the public. FSIS believes that it has fulfilled the intent of this requirement by providing several prior opportunities for public comment on nutrition labeling: The advance notice of proposed rulemaking (ANPR) published on April 2, 1991 (56 FR 13564); the 1991 proposed and 1992 supplemental proposed rules, previously addressed in this document; and the proposed rule concerning format published on August 28, 1992 (57 FR 39332). FSIS considered all comments on its ANPR and proposed rules in reaching the determinations set forth in its final regulations. In addition, FSIS held three public forums concerning the small business exemption. The determinations contained in this interim final rule stem from the final regulations and were addressed, in some fashion either directly or indirectly, throughout the rulemaking process on nutrition labeling.

Second, failure to codify the amendments in a timely manner may deprive consumers of the health benefits of nutrition labeling on certain meat or poultry products, and may substantially reduce the time for industry to comply with the new changes. Establishments require a sufficient amount of time to study all provisions of the nutrition labeling regulation to determine which portions relate to their specific labels. Afterward, they need time to devise new

labels as necessary under the new regulations, to obtain FSIS approval of these labels, and to print the labels for use on their meat and poultry products.

Finally, FSIS believes that failure to codify the amendments in a timely manner could add to the implementation cost that industry will incur. In issuing the final nutrition labeling regulation, FSIS believed it necessary to provide establishments with sufficient time for implementing the regulations to minimize industry costs. Accordingly, FSIS provided an 18-month implementation period, with an effective date of July 6, 1994. In its Nutrition Labeling Regulatory Impact Analysis, FSIS estimated that the total inventory costs for all establishments (small, medium, and large) dropped from approximately $22.6 million with a 6-month implementation period to $8.49 million at 18 months. The total labeling printing costs for all establishments dropped from approximately $517.3 million with a 6-month implementation period to $320.9 million at 18 months. Thus, the longer the implementation period, the less costs industry incurs in complying with the regulations. Some establishments have already revised their labels, or are in the process of doing so, in compliance with the new nutrition labeling regulations. Because this interim final rule may prompt establishments to make even further label revisions, FSIS sees an immediate need to issue this interim final rule in light of possible additional costs for label revisions and reprinting.

FSIS will receive comments on these technical amendments for 30 days after publication of this interim final rule. FSIS does not anticipate significant issues to surface from any comments that would further delay the implementation period for complying with the nutrition labeling regulation. FSIS simply wants to ensure that the technical amendments set forth in this interim final rule meet the general expectations and understanding of all affected parties. A final rule will be published shortly thereafter to respond to any comments received and to promulgate the changes as part of the nutrition labeling regulations.

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection.

9 CFR Part 381

Food labeling, Poultry and poultry products, Poultry inspection.

Interim Final Rule

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 317 and 381 of the Federal meat and poultry products inspection regulations as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 317.309 is amended by revising the last sentence of paragraph (g)(1) to read as follows:

§ 317.309 Nutrition label content.

* * * * *

(g)(1) * * *. An insignificant amount shall be defined as that amount that may be rounded to zero in nutrition labeling, except that for total carbohydrate, dietary fiber, sugars, and protein, it shall be an amount less than 1 gram.

* * * * *

§ 317.312 [Table 1 amended]

3. Table 1 in § 317.312(b) is amended by adding under the Product Category, at the end thereof, a new Product Category to read: "Plain meats and meat sticks, ready-to-serve." Furthermore, under the Reference Amount column, a Reference Amount of "55 g" is added for the new category.

§ 317.312 [Table 2 amended]

4. Table 2 in § 317.312(b) is amended by removing the words "meat lasagna" from the Product Category "Mixed dishes NOT measurable with a cup," and by adding the words "meat lasagna" and "meat filled pasta," at the end thereof, to the Product Category "Mixed dishes measurable with a cup." Furthermore, footnote 4 is revised to read: "If packed or canned in liquid, the Reference Amount is for the drained solids, except for products in which both the solids and liquids are customarily consumed."

5. Section 317.313 is amended by revising paragraphs (a) and (q)(3) to read as follows:

§ 317.313 Nutrient content claims; general principles.

(a) This section applies to meat products that are intended for human consumption and that are offered for sale.

* * * * *

(q) * * *

(3) A statement that describes the percentage of a vitamin or mineral in the food, including foods intended specifically for use by infants and children less than 2 years of age, in relation to a Reference Daily Intake (RDI) as defined in § 317.309 may be made on the label or in the labeling of a food without a regulation authorizing such a claim for a specific vitamin or mineral.

* * * * *

§ 317.345 [Amended]

6. Section 317.345(a)(1) is amended by adding to the first sentence the words "or manufacturer" after the word "retailer."

§ 317.362 [Amended]

7. Section 317.362(c)(1) is amended by removing the words "less than 4 grams saturated fat" and instead, adding the words "4.5 grams or less saturated fat."

8. Section 317.380 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 317.380 Label statements relating to usefulness in reducing or maintaining body weight.

* * * * *

(e) *"Label terms suggesting usefulness as low calorie or reduced calorie foods".* A product whose label contains terms suggesting usefulness as a low calorie or reduced calorie product shall be in accordance with 21 CFR 105.66.

(f) *"Sugar free" and "no added sugar".* A product whose label contains the terms "sugar free" and "no added sugar" shall be labeled in accordance with 21 CFR 105.66.

9. Section 317.400 is amended by adding new paragraphs (a)(1)(iii) and (d) to read as follows:

§ 317.400 Exemption from nutrition labeling.

(a) * * *

(1) * * *

(iii) For purposes of this paragraph, calculation of the amount of pounds shall be based on the most recent 2-year average of business activity. Where firms have been in business less than 2 years or where products have been produced for less than 2 years, reasonable estimates must indicate that the annual pounds produced will not exceed the amounts specified.

* * * * *

(d) Products in packages that have a total surface area available to bear labeling of less than 12 square inches, provided that the labels for these products bear no nutrition claims or other nutrition information. The manufacturer, packer, or distributor shall provide, on the label of packages that qualify for and use this exemption, an address or telephone number that a

consumer can use to obtain the required nutrition information (e.g., "For nutrition information call 1–800–123–4567").

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

10. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451–470, 7 CFR 2.17, 2.55.

11. Section 381.409 is amended by revising the last sentence of paragraph (g)(1) to read as follows:

§ 381.409 Nutrition label content.

* * * * *

(g) * * *

(1) * * *. An insignificant amount shall be defined as that amount that may be rounded to zero in nutrition labeling, except that for total carbohydrate, dietary fiber, sugars, and protein, it shall be an amount less than 1 gram.

* * * * *

§ 381.412 [Table 1 amended]

12. Table 1 in § 381.412(b) is amended by adding under the Product Category, at the end thereof, a new Product Category to read: "Plain poultry and poultry sticks, ready-to-serve." Furthermore, under the Reference Amount column, a Reference Amount of "55 g" is added for the new category.

§ 381.412 [Table 2 amended]

13. Table 2 in § 381.412(b) is amended by removing the words "poultry lasagna" from the Product Category "Mixed dishes NOT measurable with a cup," and by adding the words "poultry lasagna" and "poultry filled pasta", at the end thereof, to the Product Category "Mixed dishes measurable with a cup." Furthermore, footnote 4 is revised to read: "If packed or canned in liquid, the Reference Amount is for the drained solids, except for products in which both the solids and liquids are customarily consumed."

14. Section 381.413 is amended by revising paragraphs (a) and (q)(3) to read as follows:

§ 381.413 Nutrient content claims; general principles.

(a) This section applies to poultry products that are intended for human consumption and that are offered for sale.

* * * * *

(q) * * *

(3) A statement that describes the percentage of a vitamin or mineral in the food, including foods intended specifically for use by infants and children less than 2 years of age, in relation to a Reference Daily Intake (RDI) as defined in § 381.409 may be made on the label or in the labeling of a food without a regulation authorizing such a claim for a specific vitamin or mineral.

* * * * *

§ 381.445 [Amended]

15. Section 381.445(a)(1) is amended by adding to the first sentence the words "or manufacturer" after the word "retailer."

§ 381.462 [Amended]

16. Section 381.462(c)(1) is amended by removing the words "less than 4 grams saturated fat" and instead, adding the words "4.5 grams or less saturated fat."

17. Section 381.480 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 381.480 Label statements relating to usefulness in reducing or maintaining body weight.

* * * * *

(e) *"Label terms suggesting usefulness as low calorie or reduced calorie foods".* A product whose label contains terms suggesting usefulness as a low calorie or reduced calorie product shall be in accordance with 21 CFR 105.66.

(f) *"Sugar free" and "no added sugar".* A product whose label contains the terms "sugar free" and "no added sugar" shall be labeled in accordance with 21 CFR 105.66.

18. Section 381.500 is amended by adding new paragraphs (a)(1)(iii) and (d) to read as follows:

§ 381.500 Exemption from nutrition labeling.

(a) * * *

(1) * * *

(iii) For purposes of this paragraph, calculation of the amount of pounds shall be based on the most recent 2-year average of business activity. Where firms have been in business less than 2 years or where products have been produced for less than 2 years, reasonable estimates must indicate that the annual pounds produced will not exceed the amounts specified.

* * * * *

(d) Products in packages that have a total surface area available to bear labeling of less than 12 square inches, provided that the labels for these products bear no nutrition claims or other nutrition information. The manufacturer, packer, or distributor shall provide, on the label of packages that qualify for and use this exemption, an address or telephone number that a consumer can use to obtain the required nutrition information (e.g., "For nutrition information call 1–800–123–4567").

* * * * *

Done at Washington, DC, on: September 2, 1993.

Eugene Branstool,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–22117 Filed 9–9–93; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–88; Special Conditions No. 25–ANM–76]

Special Conditions: Dornier Model 328–100 Airplane; Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions with request for comments.

SUMMARY: These special conditions are issued for the Dornier Model 328–100 airplane manufactured by Dornier GmbH, Federal Republic of Germany. This airplane is equipped with high-technology digital avionics systems that perform critical or essential functions. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical and essential functions that these systems perform are maintained when the airplane is exposed to lightning and HIRF.

DATES: The effective date of these special conditions is August 31, 1993. Comments must be received on or before October 25, 1993.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–88, 1601 Lind Avenue SW., Renton, Washington, 98055–4506; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–88. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gary Lium, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–1112.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–88." The postcard will be date stamped, and returned to the commenter.

Background

On April 5, 1989, Dornier GmbH of Friedrichshafen, Federal Republic of Germany, made application for a new U.S. Type Certificate for their Model 328–100 airplane. The Model 328–100 is a 30-passenger turboprop, commuter-type airplane, powered by two Pratt & Whitney 119B engines and new composite 6-blade propellers, with a maximum takeoff weight of 30,000 pounds. The Model 328–100 airplane is equipped with high-technology digital avionics systems, including an electronic flight instrument system (EFIS), which is vulnerable to lightning and high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of § 21.17, Dornier must show that the Model 328–100 meets the applicable provisions of part 25 of the FAR, as amended by Amendments 25–1 through 25–64.

The certification basis for the Dornier Model 328–100 airplane has been established as follows: Part 25 of the FAR, effective February 1, 1965, including Amendments 25–1 through 25–61, as well as Amendments 25–62, 25–63, and 25–64, which Dornier has requested to be added to the certification basis. In addition, the certification basis includes certain exemptions and later amended sections of part 25 that are not relevant to these special conditions.

In addition to the applicable airworthiness regulations and special conditions, the Model 328–100 must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36; and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the "Noise Control Act of 1972."

If the Administrator finds that the applicable airworthiness regulations (i.e. part 25, as amended) do not contain adequate or appropriate safety standards for the Dornier Model 328–100 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new technology avionics and electronic systems. There are two regulations that specifically pertain to lightning protection: one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dornier Model 328–100 airplane that would require that new technology electrical and electronic systems, such as electronic flight instrument systems, electronic engine information displays, and digital avionics systems be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the lightning special conditions, clarification of the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular (AC) 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition, with the exception of the multiple burst environment which has been changed to agree with the latest recommendations from the Society of Automotive Engineers (SAE) AE4L Committee.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard that is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. The effect of these threats on the airplane and its systems depends upon several factors, including installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike-Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level.

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of repetitive Component H waveforms in 3 sets of 20 pulses each. The minimum time between individual Component H pulses within a burst is 50 microseconds; the maximum is 1000 microseconds. The 3 bursts are distributed according to the following constraints: (1) the minimum period between bursts is 30ms, and (2) the maximum period between bursts is 300ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t)=I_o\,(e^{-at}-e^{-bt})$

where:

t=time in seconds,

i=current in amperes, and

		Severe Strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=	218,810	109.405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
i_{peak}	=	200 KA	100 KA	50 KA	10 KA
and,					
$(di/dt)_{max}$(amp/sec)	=	1.4×10^{11} @t=0+sec	1.4×10^{11} @t=0+sec	0.7×10^{11} @t=0+sec	2.0×10^{11} @t=0+sec
di/dt, (amp/sec)		= @t=.5μs	1.0×10^{11} @t=.25μs	1.0×10^{11} @t=.25μs	0.5×10^{11} .....
Action Integral (amp^2 sec)		=	2.0×10^{6}	0.25×10^{6}	0.0625×10^{6}

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz– 2MHz	70	70
2 MHz– 30 MHz	200	200
30 MHz– 70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz– 1 GHz	1,700	170
1 GHz– 2 GHz	5,000	990
2 GHz– 4 GHz	6,680	840
4 GHz– 6 GHz	6,850	310
6 GHz– 8 GHz	3,600	670
8 GHz– 12GHz	3,500	1270
12 GHz– 18GHz	3,500	360
18 GHz– 40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions

in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Aviation Authorities.

Conclusion

This action affects only certain unusual or novel design features on the Dornier Model 328–100 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation Safety, Federal Aviation Administration, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Dornier Model 328–1000 airplanes.

I. Lightning Protection

a. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each electrical or electron system that performs essential functions must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

3. The following definitions apply with respect to these special conditions:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on August 31, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 93–22163 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 91–ANM–14]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the descriptions of several Very High Frequency Omnidirectional Range (VOR) Federal airways located in Colorado, Nebraska, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. Two new VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) facilities, Mile High (DVV) and Falcon (FQF), have been established north and south of the new Denver International Airport. This action will realign the en route airway structure to the new navigational aids and enhance the efficient utilization of airspace.

EFFECTIVE DATE: 0701 UTC, December 19, 1993.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

History

On March 31, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of several VOR Federal airways located in Colorado, Nebraska, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993 (57 FR 10847). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The FAA received 14 comments on the proposal.

The Air Transport Association (ATA) concurred without comment.

The Aircraft Owners and Pilots Association (AOPA) requested that the FAA reconsider its proposal to realign V–83 because it would create a new intersection over the Calhan Airport (5V4). AOPA noted the Calhan Airport has an active parachute drop zone with a ceiling of 17,000 feet mean sea level (Front Range Skydivers) and an aerobatic box west of the field. Further, the proposed realignment of V–83 would place the airway over Meadow Lake Airport (OOV), an active gliderport.

These concerns were shared by the Pikes Peaks Area Council of Governments, a flight instructor, several members of the Front Range Skydivers, Inc., and several private pilots. These commenters believe that the new intersection would create an unnecessary safety risk by further congesting the airspace in the proximity of the Calhan Airport. They content that the realignment of the airways over Calhan, CO would impact the operations and economics of the existing activities of the aviation community. One commenter recommended maintaining V–593 as it currently exists, intersection V–366 near the Kiowa VORTAC. The Kiowa VORTAC is scheduled to be decommissioned, but this will not prevent it from becoming an airway intersection. Other suggestions were to retain the current routing of V–83 to the proposed intersection of Kiowa.

In light of these comments, the FAA, conducted research at the FAA Technical Center in Atlantic City, NJ. It found that realignment of the Federal airways in the area of the new Denver International Airport could be accomplished to avoid the Calhan Airport without derogating operational efficiency in the area around Calhan, CO. This resulted in the realignment of V–83.

The Department of the Air Force commented that the alignment of V–83, as it was originally proposed, would reduce available airspace for a possible Military Operations Area (MOA) being discussed with FAA. Although only informal discussions have been held to date with the Air Force about establishing a MOA, the modifications made to V–83 will mitigate the Air Force's concerns. Except for editorial changes; a minor radial change from 008° to 002° at the intersection of Pueblo and Colorado Springs in the description for V–83 and the termination of V–83 at Colorado Springs to avoid the active parachute drop zone and an aerobatic training area over the Calhan Airport; the addition of an intersection between Red Table, CO, and Falcon, CO, in the description for V–134; the realignment at the Kremmling intersection for V–238 to Mile High, CO, to support the airway reconfiguration for the new airport; and a one degree radial change in the description for V–361 at the intersection of Montrose, CO, to support a new approach procedure at the Aspen, CO, Airport this amendment is the same as that proposed in the notice. A supplemental notice was not issued for this airspace action because the changes were minor in nature and within the scope of the original proposal, and it was determined that further notice and public procedure were unnecessary. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The airways listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) alters the descriptions of several VOR Federal airways located in Colorado, Nebraska, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. Two new VORTAC's, Mile High and Falcon, have been established north and south of the new airport. This action will realign the en route airway structure of these new navigational aids and enhance the efficient utilization of airspace. Additional FAA research conducted to the FAA Technical Center resulted in the realignment of Federal Airway V–83 at the intersection of Pueblo and Colorado Springs and the termination of V–83 at Colorado Springs to avoid congestion as perceived by the commenters over the Calhan Airport practice areas; the addition of an intersection between Red Table, CO, and Falcon, CO, in the description for V–134; the realignment at the Kremmling intersection for V–328 to Mile High, CO, to support the airway reconfiguration for the new airport; and a one degree radial change in the description for V–361 at the intersection of Montrose, CO, to support a new approach procedure at the Aspen, CO, Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–4 [Revised]

From Tatoosh, WA, via the INT of Tatoosh 102° and Seattle, WA, 329° radials; Seattle; Yakima, WA; Pendleton, OR; Baker, OR; Boise, ID; INT Boise 130° and Burley, ID, 292° radials; Burley; Malad City, ID; Rock Springs, WY; Cherokee, WY; Laramie, WY; Gill, CO; Thurman, CO; Goodland, KS; Hill City, KS; Salina, KS; Topeka, KS; Kansas City, MO; Hallsville, MO; St. Louis, MO; Troy, IL; Centralia, IL; Pocket City, IN; Louisville, KY; Lexington, KY; Newcombe, KY; Charleston, WV; Elkins, WV; Kessel, WV; INT Kessel 097° and Armel, VA, 292° radials; to Armel.

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V–8 [Revised]

From INT Seal Beach, CA, 266° and Ventura, CA 144° radials; Seal Beach; Paradise, CA; 35 miles, 7 miles wide (3 miles SE and 4 miles NW of centerline) Hector, CA; Goffs, CA; INT Goffs 033° and Morman Mesa, NV, 196° radials; Morman Mesa; Bryce Canyon, UT; Hanksville, UT; Grand Junction, CO; Kremmling, CO; Mile High, CO; Akron, CO; Hayes Center, NE; Grand Island, NE; Omaha, NE; Des Moines, IA; Iowa City, IA; Moline, IL; Joliet, IL; Chicago Heights, IL; Goshen, IN; Findlay, OH; Mansfield, OH; Briggs, OH; Bellaire, OH; INT Bellaire 107° and Grantsville, MD, 285° radials; Grantsville; Martinsburg, WV; to DC. The portion outside the United States has no upper limit.

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V–19 [Revised]

From Newman, TX, via INT Newman 286° and Truth or Consequences, NM, 159° radials; Truth or Consequences; INT Truth or Consequences 028° and Socorro, NM, 189° radials; Socorro; Albuquerque, NM; INT Albuquerque 036° and Santa Fe, NM, 245° radials; Santa Fe; Las Vegas, NM; Cimarron, NM; Pueblo, CO; Colorado Springs, CO; INT Colorado Springs 036° and Gill, CO, 149° radials; Gill; Cheyenne, WY; Muddy Mountain, WY; 5 miles, 45 miles 71 MSL, Crazy Woman, WY; Sheridan, WY; Billings, MT; 38 miles 72 MSL, INT Billings 347° and Lewistown, MT, 104° radials; Lewistown; INT Lewistown 322° and Havre, MT, 226° radials; to Havre.

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V–81 [Revised]

From Chihuahua, Mexico, via Marfa, TX; Fort Stockton, TX; Midland, TX; Lubbock, TX; Plainview, TX; Amarillo, TX; Dalhart, TX; Tobe, CO; Pueblo, CO; Colorado Springs, CO; Jeffco, CO; Cheyenne, WY; Scottsbluff, NE; to Chadron, NE. The airspace outside the United States is excluded.

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V–83 [Revised]

From Carlsbad, NM, via Chisum, NM; 40 miles 85 MSL Corona, NM; Otto, NM; Santa

Fe, NM; Taos, NM; Alamosa, CO; INT Alamosa 074° and Pueblo, CO, 191° radials; Pueblo; INT Pueblo 002° and Colorado Springs, CO, 153° radials; to Colorado Springs.

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V-85 [Revised]

From Falcon, Co, via INT Falcon 317° and Laramie, WY, 176° radials; Laramie; Medicine Bow, WY; Muddy Mountain, WY; 29 miles, 48 miles 77 MSL, Riverton, WY; Boysen Reservoir, WY; Cody, WY; to Billings, MT.

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V-89 [Revised]

From Gill, CO, via INT Gill 003° and Cheyenne, WY, 131° radials; Cheyenne; to Chadron, NE.

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V-95 [Revised]

From Gila Bend, AZ, via INT Gila Bend 096° and Phoenix, AZ, 197° radials; Phoenix; 49 miles, 40 miles 95 MSL; Winslow, AZ; 66 miles, 39 miles 125 MSL; Farmington, NM; Durango, CO; Blue Mesa, CO; INT Blue Mesa 081° and Falcon, CO, 208° radials; to Falcon.

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V-134 [Revised]

From Fairfield, UT, via Carbon, UT; Grand Junction, CO; 33 miles 12 AGL, 21 miles 127 MSL, 16 miles 120 MSL, 34 miles 12 AGL, Red Table, CO; INT Red Table 076° and Falcon, CO, 265° radials; to Falcon, CO.

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V-148 [Revised]

From Falcon, CO; Thurman, CO; 65 MSL INT Thurman 067° and Hayes Center, NE, 246° radials; Hayes Center; North Platte, NE; O'Neill, NE; Sioux Falls, SD; Redwood Falls, MN; Gopher, MN; Hayward, WI; Ironwood, MI; to Houghton, MI.

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V-160 [Revised]

From Blue Mesa, CO, INT Blue Mesa 064° and Falcon, CO, 231° radials; Falcon; INT Falcon 049° and Sidney, NE, 215° radials; to Sidney.

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V-207 [Revised]

From Gill, CO; to Scottsbluff, NE.

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V-220 [Revised]

From Grand Junction, CO; 25 miles 90 MSL, 28 miles 120 MSL; INT Grand Junction 075° and Meeker, CO, 167° radials; Meeker; Hayden, CO; Kremmling, CO; INT Kremmling 081° and Gill, CO, 234° radials; Gill; Akron, CO; INT Akron 094° and McCook, NE, 264° radials; McCook; INT McCook 072° and Grand Island, NE, 241° radials; Kearney, NE; Hastings, NE; Columbus, NE. From Norfolk, NE; Yankton, SD; INT Yanton 015° and Sioux Falls, SD, 231° radials; Sioux Falls; INT Sioux Falls 004° and Watertown, SD, 154° radials; Watertown; INT Watertown 021° and Fargo, ND, 172° radials; Fargo; INT Fargo 004° and Grand Forks, ND, 152° radials; to Grand Forks.

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V-263 [Revised]

From Corona, NM, INT Corona 278° and Albuquerque, NM, 160° radials; Albuquerque; INT Albuquerque 019° and Santa Fe, NM, 268° radials; Santa Fe; Las Vegas, NM; Cimarron, NM; Tobe, CO; 54 miles 69 MSL; Lamar, CO; 17 miles 63 MSL; Hugo, CO; INT Hugo 345° and Akron, CO, 232° radials; to Akron. From Pierre, SD; Aberdeen, SD.

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V-328 [Revised]

From Jackson, WY, via Big Piney, WY; 53 miles 95 MSL; Rock Springs, WY; Hayden, CO; Kremmling, CO; INT Kremmling 139° and Mile High, CO, 233° radials; to Mile High.

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V-356 [Revised]

From Red Table, CO, via INT Red Table 058° and Mile High, CO, 265° radials; to Mile High.

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V-361 [Revised]

From Farmington, NM, via Montose, CO; INT Montrose 025° and Red Table, CO, 224° radials; Red Table; Kremmling, CO; via INT Kremmling 059° and Cheyenne, WY, 216° radials; to Cheyenne.

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V-366 [Revised]

From Hugo, CO; to Falcon, CO.

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V-383 [Removed]

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Issued in Washington, DC, on September 2, 1993.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93-22159 Filed 9-9-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-ANM-16]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the descriptions of several jet routes located in Colorado, Idaho, Kansas, Nebraska, South Dakota, Utah, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. This action will improve traffic flow, increase aircraft safety, and reduce controller workload.

EFFECTIVE DATE: 0701 UTC, December 19, 1993.

FOR FURTHER INFORMATION CONTACT:

Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

History

On March 31, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of several jet routes located in Colorado, Idaho, Kansas, Nebraska, South Dakota, Utah, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993 (57 FR 10841). Simulations conducted at the FAA Technical Center required changes to the original proposal. On September 2, 1992, the FAA published a supplemental notice proposing to alter the jet route structures of J-56 and J-114 as proposed in the original notice and to alter Jet Route J-54 between Idaho and Wyoming (57 FR 40149). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Based on the need for corrections discovered during flight checks of the proposed routes, the radials for J-20 and J-52 were revised to align with the Standard Terminal Arrival Route (STAR) over the Hugo, CO, Very High Frequency Omnidirectional Range/Tactical Air Navigation. The proposal to alter the jet route structure of J-10 resulted in the removal of a segment from the intersection of Falcon, CO, and North Platte, NE; and the extension of J-54 from Baker, OR, to Pocatello, ID, resulted in the removal of Boise, ID, from that segment of the route to improve existing air traffic control route continuity on frequently used high altitude routes. Otherwise, this amendment is the same as that proposed in the supplemental notice. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The jet routes listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions for several jet routes located in Colorado, Idaho, Kansas, Nebraska, South Dakota, Utah, and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. This action will improve traffic flow, increase aircraft safety, and reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app; 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

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J–10 [Revised]

From Los Angeles, CA; via INT Los Angeles 083° and Twentynine Palms, CA, 269° radials; Twentynine Palms; INT of Twentynine Palms 075° and Drake, AZ, 262° radials; Drake; Farmington, NM, Blue Mesa, CO; Falcon, CO; North Platte, NE; Wolbach, NE; Des Moines, IA; to Iowa City, IA.

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J–13 [Revised]

From the INT of the United States/Mexican border and the Truth or Consequences, NM, 162° radial, via Truth or Consequences; Albuquerque, NM; Alamosa, CO; INT Alamosa 015° and Falcon, CO, 209° radials; Falcon; Cheyenne, WY; Muddy Mountain, WY; Billings, MT; Great Falls, MT; to Lethbridge, AB, Canada. The airspace within Canada is excluded.

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J–17 [Revised]

From San Antonio, TX; via Abilene, TX; Amarillo, TX; Tobe, CO; Pueblo, CO; Falcon, CO; Cheyenne, WY; to Rapid City, SD.

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J–20 [Revised]

From Seattle, WA; via Yakima, WA; Pendleton, OR; Donnelly, ID; Pocatello, ID; Rock Springs, WY; Falcon, CO; Hugo, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; Shreveport, LA; Jackson, MS; Montgomery, AL; Meridian, MS; Tallahassee, FL; INT Tallahassee 129° and Orlando, FL, 306° radials; Orlando; INT Orlando 154° and Fort Lauderdale, FL, 339° radials; to Fort Lauderdale

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J–44 [Revised]

From Phoenix, AZ; via Winslow, AZ, Farmington, NM; Alamosa, CO; INT Alamosa 015° and Falcon, CO, 209° radials; Falcon; McCook, NE; to Lincoln, NE.

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J–52 [Revised]

From Vancouver, BC, Canada; via Spokane, WA; Salmon, ID; Dubois, ID; Rock Springs, WY; Falcon, CO; Hugo, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Ardmore, OK, 309° radials; Ardmore; Dallas-Fort Worth, TX; Texarkana, AR; Sidon, MS; Bigbee, MS; Vulcan, AL; Atlanta, GA; Colliers, SC; Columbia, SC; Raleigh-Durham, NC; to Richmond, VA. The portion within Canada is excluded.

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J–54 [Revised]

From Tatoosh, WA; via Olympia, WA; Baker, OR; Pocatello, ID; Cherokee, WY; to Laramie, WY.

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J–56 [Revised]

From Mina, NV; Salt Lake City, UT; Hayden, CO; INT Hayden 090° and Falcon, CO, 317° radials; to Falcon.

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J–60 [Revised]

From Los Angeles, CA; via Paradise, CA; Hector, CA; Boulder City, NV; Bryce Canyon, UT; Hanksville, UT; Red Table, CO; Mile High, CO; Hayes Center, NE; Lincoln, NE; Iowa City, IA; Joliet, IL; Goshen, IN; Dryer, OH; Philipsburg, PA; East Texas, PA; to Sparta, NJ.

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J–80 [Revised]

From Oakland, CA; via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Grand Junction, CO; Red Table, CO; Falcon, CO; Goodland, KS; Hill City, KS; Kansas City, MO; Capital, IL; Indianapolis, IN; Bellaire, OH; INT Bellaire 090° and East Texas, PA, 240° radials; East Texas; Sparta, NJ; Barnes, MA; to Bangor, ME.

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J–114 [Revised]

From Mile High, CO; Sidney, NE; INT Sidney 075° and O'Neill, NE, 239° radials; O'Neill; Sioux Falls, SD; to Gopher, MN.

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J–116 [Revised]

From Salt Lake City, UT, via Fairfield, UT; Meeker, CO; to Falcon, CO.

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J–128 [Revised]

From Los Angeles, CA, via INT Los Angeles 083° and Peach Springs, AZ, 244° radials; Peach Springs; Tuba City, AZ; Blue Mesa, CO; Falcon, CO; Hayes Center, NE; Wolbach, NE; Dubuque, IA; to Northbrook, IL.

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J–130 [Revised]

From McCook, NE; to Pawnee City, NE.

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J–154 [Revised]

From Battle Mountain, NV; Bonneville, UT; Salt Lake City, UT; Rock Springs, WY; INT Rock Springs 106° and Mile High, CO, 322° radials; Mile High; INT Mile High 133° and Garden City, KS, 298° radials; to Garden City.

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J–157 [Revised]

From Myton, UT; Laramie, WY; Scottsbluff, NE; to Rapid City, SD.

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J–168 [Revised]

From Wichita Falls, TX; Lamar, CO.

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J–170 [Revised]

From Crazy Woman, WY; via Muddy Mountain, WY; to Medicine Bow, WY.

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J–172 [Removed]

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Issued in Washington, DC, on September 2, 1993.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93–22160 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 91-ANM-17]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the descriptions of three Very High Frequency Omnidirectional Range (VOR) Federal airways located in Colorado and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. Two new VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) facilities, Mile High (DVV) and Falcon (FQF), have been established north and south of the new Denver International Airport. This action will realign the en route airway structure to the new navigational aids and enhance the efficient utilization of airspace.

EFFECTIVE DATE: 0701 UTC, December 19, 1993.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

History

On March 31, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of three VOR Federal airways located in Colorado and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993 (57 FR 10843). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

The Air Transport Association (ATA) concurred without comment to the FAA's proposal to alter the VOR Federal airways in Colorado and Wyoming.

The Aircraft Owners and Pilots Association (AOPA) requested the FAA to reconsider its proposal to realign V-389 and V-593 because it would create a new intersection over the Calhan Airport (5V4). AOPA noted the Calhan Airport has an active parachute drop zone with a ceiling of 17,000 feet mean sea level (Front Range Skydivers) and an aerobatic box west of the field. These concerns were shared by the Pikes Peak Area Council of Governments, a flight instructor, several members of the Front Range Skydivers, Inc., and several private pilots. These commenters believe that the new intersection would create an unnecessary safety risk by further congesting the airspace in the proximity of the airport. They contend that the realignment of the airways over Calhan, CO would impact the operations and economics of the existing activities of the aviation community. One commenter recommended maintaining V-593 as it currently exists, intersecting V-366 near the Kiowa VORTAC. The Kiowa VORTAC is scheduled to be decommissioned, but this will not prevent it from becoming an airway intersection. Other suggestions were to eliminate the proposed V-389 and use the existing V-593.

In light of these comments, the FAA conducted research at the FAA Technical Center in Atlantic City, NJ. It found that V-389 could be realigned and V-593 could be removed to avoid the Calhan Airport without derogating operational efficiency in the area around Calhan, CO.

The Department of the Air Force commented that the alignment of V-389, as it was originally proposed, would reduce available airspace for a possible Military Operations Area (MOA) being discussed with FAA. Although only informal discussions have been held to date with the Air Force about establishing a MOA, the modifications made to V-389 will mitigate the Air Force's concerns. Except for editorial changes, the realignment of V-389, a one degree radial change in the description for V-575 at the Laramie INT, and the removal of V-593, this amendment is the same as that proposed in the notice. A supplemental notice was not issued for this airspace action because the changes were minor in nature and within the scope of the original proposal, and it was determined that further notice and public procedure were unnecessary. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The airways listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of several VOR Federal airways located in Colorado and Wyoming to accommodate the new Denver International Airport, scheduled to open in December, 1993. Additional FAA research conducted at the FAA Technical Center resulted in the realignment of Federal Airway V-389 to avoid congestion as perceived by the commenters over the Calhan Airport practice areas; a one degree radial correction in the description of V-575 at the Laramie intersection; and the removal of V-593 to enhance the efficient utilization of airspace. In addition, two new VORTAC's, Mile High and Falcon, have been established north and south of the new airport. This action will realign the en route airway structure to the new navigational aids.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V-389 [Revised]

From Cimarron, NM, via INT Cimarron 053° and Pueblo, CO, 176° radials; Pueblo; INT Pueblo 002° and Falcon, CO, 159° radials; to Falcon.

* * * * *

V-575 [Revised]

From Laramie, WY, INT Laramie 156° and Mile High, CO, 322° radials; to Mile High.

* * * * *

V-593 [Removed]

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Issued in Washington, DC on September 2, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-22164 Filed 9-9-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM93-16-001]

Revisions to the Regulations Governing Natural Gas Pipelines; Order No. 554

September 3, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission is correcting its final rule published in the **Federal Register** on July 19, 1993, pertaining to the elimination of the requirement that natural gas pipeline companies file FERC Form No. 15, "Interstate Pipeline's Annual Report of Gas Supply," and FERC Form No. 16, "Report of Gas Supply and Requirements." The rule inadvertently amended a section of the Commission's regulations which had been removed effective May 1, 1992.

EFFECTIVE DATE: This correction is effective September 3, 1993.

FOR FURTHER INFORMATION CONTACT: Gordon Wagner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 219-0122.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208-1781. The full text of this document will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

On July 13, 1993, the Commission issued Order No. 554 (58 FR 38524, July 19, 1993; 64 FERC ¶ 61,059 (1993)), a final rule eliminating the requirement that natural gas pipeline companies file FERC Form No. 15, "Interstate Pipeline's Annual Report of Gas Supply," and FERC Form No. 16, "Report of Gas Supply and Requirements." Order No. 554 inadvertently revised 18 CFR 2.61, which had been removed from the Commission's regulations effective May 1, 1992. (57 FR 21891, May 26, 1992). Therefore, the final rule published in the **Federal Register** on July 19, 1993, is corrected as follows:

1. On page 38526, the paragraph entitled "C. Section 2.61" is removed and paragraphs "D, E, and F" are redesignated as "C, D, and E," respectively.

2. On page 38527, the heading "PART 2—GENERAL POLICY AND INTERPRETATIONS" and amendatory instructions 1 and 2 are removed; amendatory instructions 3 through 13 are redesignated as amendatory instructions 1 through 11.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22072 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 121

[Public Notice 1858]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule is the result of a notice of proposed rule-making published in the **Federal Register**, 57 FR 61589, dated December 28, 1992. It amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, this rule moves remote sensing satellites and some ground stations for controlling remote sensing satellites, as well as relevant components, parts, accessories, attachments and associated equipment and technical data and defense services into Category XV of the U.S. Munitions List (USML). Accordingly, it removes those commodities from Category VIII (h), (i), (j) and (k) and Category XI (c) and (e) of the USML where, until now, they had been controlled. (See the **Federal Register**, 57 FR 15227, dated April 27, 1992.)

This rule reduces the burden on exporters by consolidating all spacecraft to be controlled under the USML, as well as all specifically designed or modified components, parts, accessories, and attachments of such satellites, and their directly related technical data and defense services, into a single category of the USML. At the same time, this rule initiates the movement off the USML to the Department of Commerce's Commerce Control List (CCL) of some ground stations for remote sensing satellites as well as all components, parts, accessories, attachments and associated equipment of spacecraft which have not been specifically designed or modified to provide the characteristics of capabilities described in Category XV which cause a spacecraft to remain under the control of the USML. The Department of Commerce is publishing separately a final rule under the provisions of the Export Administration Act, as amended, to amend the relevant Export Commodity Control Number (ECCN) category to include the spacecraft components, parts, accessories, and attachments and associated equipment being moved as a result of this rule.

EFFECTIVE DATE: This rule is effective September 8, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Peoples, Office of Defense Trade Controls, Department of State, telephone 703-875-6619, or fax 703-875-6647; or Thomas Oldenburg, Office of Strategic Technology Affairs, Department of State, telephone 202-647-2432, or fax 202-736-7336.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President

signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President included removal from the USML of all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized by such a move.

In implementing this directive, the Department created an interagency working group which reviewed the coverage of spacecraft and related components. Chaired by the Department of State, the Space Technical Working Group, (STWG) is comprised of representatives of the Departments of State, Commerce, Defense, and other executive agencies. The group was established to identify and recommend for removal from the USML commercial satellites and related articles covered by the COCOM Industrial List (IL) except where such movement would jeopardize U.S. national security interests. In pursuing this objective, the STWG has also sought to eliminate real or apparent overlaps between the U.S. Munitions List and the Commerce Control List. This rule derives from both objectives.

On September 5, 1991, the Department published in the **Federal Register** an advanced notice of proposed rule-making, establishing a new Category XV on the USML for spacecraft and related systems (56 FR 43894). A final rule formally creating Category XV for Spacecraft Systems and Associated Equipment was published in the **Federal Register** on April 27, 1992 (57 FR 15227).

The advanced notice of proposed rule-making which the Department published in the **Federal Register** on September 5, 1991, advised that a series of proposed rules would follow. Subsequent to the April 27, 1992, final rule, a final rule published on September 9, 1992 (57 FR 41077), identified military GPS receivers and moved them into the new Category XV. Another final rule, dated October 23, 1992, moved military satellites to Category XV and identified certain non-military communications satellites which have capabilities that justify keeping them on the USML in the interest of U.S. national security (57 FR 48315). That rule, along with a final rule published simultaneously by the Department of Commerce, moved all other complete commercial communications satellites to the export licensing control of the Department of Commerce. This final rule completes the internal movement within the USML to Category XV of all remaining satellites and the components, parts, accessories, and attachments and associated equipment specifically designed for those satellites, and all directly related technical data and defense services for those satellites. At the same time, in conjunction with a final rule being published simultaneously by the Department of Commerce, all generic satellite components, parts, accessories, attachments and associated equipment except where such equipment is specifically designed or modified to provide one or more of the characteristics or capabilities identified in Category XV of the USML as requiring control under the USML) are being moved from the USML to the CCL. In addition, under this final rule and the new Department of Commerce final rule referred to above, all passive ground stations for receipt of data from remote sensing satellites are being moved from the USML to the CCL; ground stations for remote sensing satellites which have USML encryption capability or uplink command capability will remain in Category XV of the USML.

The proposed rule published in the **Federal Register** on December 28, 1992, generated nine responses during the 30-day public comment period for the proposed rule. With a few exceptions, most of industry's comments focused upon language related to commercial communications satellites, which were published as a final rule on October 23, 1992. While the Department will consider those comments for possible future action, it does not intend to make any changes to the language regarding commercial communications satellites at this time.

One industry comment did touch upon the inclusion of certain radiation hardened integrated circuits (IC's) in the specific language of Category XV(e)(2). Heretofore, the USML controlled exports of a large proportion of radiation hardened IC's under the USML under Category XI; as a result of this final rule, all so-called "class 2" radiation hardened IC's previously controlled under the USML are being moved to the CCL. Those radiation hardened IC's which the Department has determined should continue to be controlled under the USML are specifically identified in the language of Category XV(e)(2).

Other comments mentioned the language of Category XV(e), which controls all components, parts, accessories, attachments and associated equipment which are specifically designed, modified or configured for the items in Category XV. Industry recognized that the language moves a significant quantity of such components, parts, etc., off the USML, but expressed concern that some such components (for example, traveling wave tube amplifiers) must receive minor adjustments which do not affect their capabilities or characteristics in order to be usable in a specific satellite. Such a situation would result in some satellite components being subject to the CCL when the satellite for which it is being exported is on the CCL, while virtually identical components would be controlled on the USML when the specific satellite for which it is being exported is on the USML. The Department understands industry's concern in this instance and does not intend such a result; however, it has been determined that the clarification in this paragraph will suffice to put such concerns to rest without having to make any additional changes in the actual text of Category XV(e)(1). The language of Category XV(e)(1) captures only those specific components, parts, etc., of a satellite or military GPS receiver which are specifically designed, modified or configured to provide one or more of the characteristics or capabilities specifically identified in Category XV. All other components, parts, accessories, attachments and associated equipment specifically designed for satellites but not providing such a capability or characteristic will henceforth be under the export licensing jurisdiction of the Department of Commerce, regardless of whether the satellite is on the USML or the CCL. However, this paragraph regarding Category XV of the USML must not be used to infer movement to the CCL of equipment controlled under other categories of the USML. For example, military telemetry equipment continues to be controlled under Category XI of the USML, even though a specific export transaction of such equipment may be intended for end-use in a passive remote sensing ground station; in this situation, the ground station would also be controlled under the USML because of the inclusion of the military telemetry equipment capture in Category XI.

In addition to comments received from the private sector, the Department received from other Federal agencies several detailed technical suggestions related to language in Category XV(b), which controls remote sensing satellites. The STWG has requested and was granted additional time to review the technical merits of those proposals. However, because of the advantages to industry and to the United States Government of the transfer of material from the USML to the CCL implicit in the language of the December 28, 1992, proposed rule, the Department has

decided to enact the language of the December 28, 1992, proposed rule as a final rule and publish it in conjunction with a complementary final rule by the Department of Commerce. The STWG anticipates completing its review of the language of Category XV(b) on remote sensing satellites approximately 120 days following publication of this final rule. Any further changes (if any) to the language in the USML on remote sensing satellites will be made in a follow-on final rule at that time.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M (consisting of parts 120 through 130) of the Code of Federal Regulations is amended to read as set forth below:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 121.1, Category XV is revised to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XV—Spacecraft Systems and Associated Equipment

* (a) Spacecraft and associated hardware, including ground support equipment, specifically designed or modified for military use.

(b) Remote sensing satellite systems as follows:

* (1) All Remote sensing satellites;

(2) Ground control stations for remote sensing satellites as follows:

(i) Ground control stations for telemetry, tracking and control of such satellites; or

(ii) Passive ground stations for remote sensing satellites having any of the following characteristics:

(A) Employing any of the cryptographic items controlled under Category XIII of this subchapter; or

(B) Employing any uplink command capability.

Note: For export licensing controls over any passive ground receive only stations for remote sensing satellites not having any of the above parameters nor any systems or major components controlled elsewhere under this subchapter, see the Commerce Control List.

(c) Communications satellites (excluding ground stations and their associated equipment and technical data not enumerated elsewhere in this § 121.1; for controls on such ground stations, see the Commerce Control List) with any of the following characteristics:

(1) Anti-jam capability. Antennas and/or antenna systems with ability to respond to incoming interference by adaptively reducing antenna gain in the direction of the interference.

(2) Antennas:

(i) With aperture (overall dimension of the radiating portions of the antenna) greater than 30 feet ; or

(ii) With sidelobes less than or equal to −35dB; or

(iii) Designed, modified, or configured to provide coverage area on the surface of the earth less than 200 nm in diameter, where "coverage area" is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam).

(3) Designed, modified or configured for intersatellite data relay links that do not involve a ground relay terminal ("cross-links").

(4) Spaceborne baseband processing equipment that uses any technique other than frequency translation which can be changed several times a day on a channel by channel basis among previously assigned fixed frequencies.

(5) Employing any of the cryptographic items controlled under Category XIII (b) of this subchapter.

(6) Employing radiation-hardened devices controlled elsewhere in this § 121.1 that are not "embedded" in the satellite in such a way as to deny physical access. (Here "embedded" means that the device either cannot feasibly be removed from the satellite or be used for other purposes.)

(7) Having propulsion systems which permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1g.

(8) Having attitude control and determination systems designed to provide spacecraft pointing determination and control better than 0.02 degrees per axis.

(9) Having orbit transfer engines ("kick-motors") which remain permanently with the spacecraft and are capable of being restarted after achievement of mission orbit and providing acceleration greater than 1g. (Orbit transfer engines which are not designed, built, and shipped as an integral part of the satellite are controlled under Category IV of this subchapter.)

(d) Global Positioning System (GPS) receiving equipment specifically designed, modified or configured for military use; or GPS receiving equipment with any of the following characteristics:

(1) Designed for encryption or decryption (e.g., Y-Code) of GPS precise positioning service (PPS) signals;

(2) Designed for producing navigation results above 60,000 feet altitude and at 1,000 knots velocity or greater;

(3) Specifically designed or modified for use with a null steering antenna or including a null steering antenna designed to reduce or avoid jamming signals;

(4) Designed or modified for use with unmanned air vehicle systems capable of delivering at least a 500 kg payload to a range of at least 300 km.

(**Note**: GPS receivers designed or modified for use with military unmanned air vehicle systems with less capability are considered to be specifically designed, modified or configured for military use and therefore covered under this paragraph (d)(4).)

Any GPS equipment not meeting this definition is subject to the jurisdiction of the Department of Commerce (DOC). Manufacturers or exporters of equipment under DOC jurisdiction are advised that the U.S. Government does not assure the availability of the GPS P-Code for civil navigation. It is the policy of the Department of Defense (DOD) that GPS receivers using P-Code without clarification as to whether or not those receivers were designed or modified to use Y-Code will be presumed to be Y-Code capable and covered under this paragraph. The DOD policy further requires that a notice be attached to all P-Code receivers presented for export. The notice must state the following: "ADVISORY NOTICE: This receiver uses the GPS P-Code signal, which by U.S. policy, may be switched off without notice."

(e) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) as follows:

(1) Specifically designed, modified or configured for the articles in paragraphs (a) through (d) of this category.

(2) Radiation hardened microelectronic circuits that are specifically designed or rated to meet or exceed all five of the following characteristics:

(**Note**: For export controls on all other radiation hardened microelectronic circuits not captured below, see the Commerce Control List.)

(i) A total dose of 5×10^5 Rads (Si);

(ii) A dose rate upset of 5×10^8 Rads (Si)/Sec.;

(iii) A neutron dose of 1×10^{14} N/cm^2;

(iv) A single event upset of 1×10^{-7} or less error/bit/day; and

(v) Single event latch-up free and having a dose rate latch-up of 5×10^8 Rads(Si)/sec or greater.

(f) Technical data (as defined in § 120.21) and defense services (as defined in § 120.8) directly related to the defense articles enumerated in paragraphs (a) through (f) of this category. (See § 125.4 for exceptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME. In addition, detailed design, development, production or manufacturing data for all spacecraft systems and specifically designed or modified components thereof, regardless of which U.S. Government agency has jurisdiction for export of the spacecraft. (See § 125.4 for exceptions.) This restriction does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations), as well as data necessary to evaluate in-orbit anomalies and to operate and maintain associated ground equipment.

* * * * *

Dated: July 19, 1993.

Lynn E. Davis,

Under Secretary of State for International Security Affairs.

[FR Doc. 93–21465 Filed 9–9–93; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8489]

RIN 1545–AP53

Combat Zone Compensation of Members of the Armed Forces

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to whether compensation received for active service in the Armed Forces of the United States in a combat zone is excludable from the recipient's gross income. These regulations reflect various statutory changes enacted since the publication of prior regulations under section 112. These regulations provide guidance to personnel departments of the Armed Forces and help service members determine their income tax liability for compensation received for service in a combat zone.

EFFECTIVE DATE: These regulations are effective January 16, 1991.

FOR FURTHER INFORMATION CONTACT: Robert B. Goettlich at (202) 622–6040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1991, the Internal Revenue Service published in the **Federal Register** (56 FR 10211) proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 112 of the Internal Revenue Code of 1986 (Code), which provides an exclusion from gross income for compensation paid to members of the Armed Forces of the United States for service in a combat zone (combat zone compensation exclusion). The amendments were proposed to reflect the statutory changes made by sections 2(a) and 6(b) of Public Law 93–597, 88 Stat. 1950, and section 3(b) of Public Law 94–569, 90 Stat. 2699 (both amending sections 112 and 2201 of the Code), and section 905 of Public Law 98–94, 97 Stat. 614, 636 (amending 37 U.S.C. 310). Many of those changes expanded the combat zone compensation exclusion by eliminating certain limits on its availability. In addition to those changes, amendments were proposed to make the regulations clearer and better organized.

Written comments were received from the public on the proposed regulations, but no public hearing was requested or held. After consideration of all of the written comments received, the proposed regulations under section 112 are adopted as modified by this Treasury decision.

Explanation of Provisions

Section 112 of the Code excludes from gross income certain compensation received by members of the Armed Forces of the United States for active duty in a "combat zone." This exclusion applies to compensation received for the period of active service in the combat zone. It also applies to compensation received for the period in which the service member is hospitalized as a result of wounds, disease, or injury incurred while serving in the combat zone.

An area in which the Armed Forces of the United States are engaging or have engaged in combat is a "combat zone" for purposes of section 112 only if the President of the United States designates the area as a combat zone by Executive Order. Under § 1.112–1(e) of these regulations, members of the Armed Forces who perform military service in an area outside a combat zone specified by Executive Order are also deemed to serve in the combat zone for purposes of the exclusion under section 112 if their service is in direct support of the military operations in the combat zone and qualifies them for special pay authorized under section 310 of title 37 of the United States Code (37 U.S.C. 310).

Before October 1, 1983, special pay under 37 U.S.C. 310 was referred to as "hostile fire pay" because it could be authorized only if service members were subject to hostile fire or explosion of hostile mines. Effective October 1, 1983, 37 U.S.C. 310 was amended to add 37 U.S.C. 310(a)(4), which provides that special pay can also be authorized for certain service members who are on duty in a foreign area in which they are subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions. The Department of Defense refers to special pay under 37 U.S.C. 310 (whether due to either hostile fire or imminent danger) as special pay for duty subject to hostile fire or imminent danger.

These regulations reflect the amendment of 37 U.S.C. 310 providing for imminent danger pay. Paragraphs (e) and (f) of § 1.112–1 of these regulations (formerly paragraphs (j) and (k) of § 1.112–1) clarify that special pay received under the imminent danger provision of 37 U.S.C. 310(a)(4) is treated in the same manner for purposes of section 112 as special pay received under the hostile fire provisions of 37 U.S.C. 310(a) (1) through (3). As a result, members of the Armed Forces who perform military service outside a combat zone are nevertheless deemed to serve in the combat zone during the period in which they perform service qualifying them for pay under any provision of 37 U.S.C. 310, including the imminent danger provision of 37 U.S.C. 310(a)(4), if the service is in direct support of military operations in the combat zone. These regulations provide an example illustrating this provision.

Prior to July 1, 1973, the combat zone compensation exclusion only applied to compensation received for service in a combat zone "during an induction period" (generally, any period during which individuals could be inducted into the Armed Forces for training and

service). This limitation was removed from section 112 by section 2(a) of Public Law 93–597. These regulations reflect the elimination of the phrase "during an induction period" throughout § 1.112–1.

Summary of Significant Modifications

In general, these final regulations retain the structure of the proposed regulations. However, the final regulations reflect certain modifications to the proposed regulations in response to comments received from the public.

Some commentators suggested that the regulations provide examples of specific types of compensation that might be excluded under section 112. Consistent with positions announced in Revenue Ruling 71–343, 1971–2 C.B. 92, and Revenue Ruling 73–187, 1973–1 C.B. 51, new § 1.112–1(b)(5) provides six examples of combat zone compensation, illustrating that compensation other than military basic pay can be eligible for the exclusion. The examples also illustrate the principle that the time and place of entitlement to compensation, not the time and place of payment of the compensation, determine whether the compensation can be excluded from income under section 112. A statement of that principle and of the meaning of the term "entitlement" were also added to § 1.112–1(b)(4).

One commentator suggested that *Examples 1* and *2* in § 1.112–1(e)(2) clarify that the combat zone compensation exclusion is available for the month of May (a month during which the member in the examples actually served in the combat zone) as well as for June (a month in which the member served outside the combat zone but satisfied the conditions for deemed combat zone service). The examples have been so clarified.

One commentator suggested that the regulations could be interpreted to allow a member who remained a prisoner of war for three years after the termination of combatant activities in the combat zone and who was hospitalized upon release to exclude military compensation received for two years of hospitalization following release. The commentator requested that an example be added reflecting that interpretation. Section 112 expressly limits the combat zone compensation exclusion for hospitalization to the two-year period following termination of combatant activities in the zone. No exception to this limit is provided for hospitalization of former prisoners of war. Accordingly, the final regulations do not adopt the commentator's interpretation or provide an example supporting that interpretation.

Finally, § 1.112–1(a)(4) was included in the proposed regulations to clarify that the exclusion under section 112 applies only to combat zone compensation received from the Armed Forces of the United States, except as provided in section 112(d)(2) (which extends the exclusion to compensation of civilian employees of the Federal Government who are in missing status as a result of the Vietnam conflict). Payments by other employers (whether private enterprises or governmental entities) cannot be excluded from income under section 112. The final regulations retain this provision but, consistent with Revenue Ruling 69–353, 1969–1 C.B. 49, include a limited exception for combat zone compensation paid by an agency or instrumentality of the United States or by an international organization to active duty military personnel who are assigned to the agency or instrumentality or organization on official detail.

Special Analyses

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

Drafting Information

The principal author of these regulations is Robert B. Goettlich of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.112–1 is revised to read as follows:

§ 1.112–1 Combat zone compensation of members of the Armed Forces.

(a) *Combat zone compensation exclusion*—(1) *Amount excluded.* In addition to the exemptions and credits otherwise applicable, section 112 excludes from gross income the following compensation of members of the Armed Forces:

(i) *Enlisted personnel.* Compensation received for active service as a member below the grade of commissioned officer in the Armed Forces of the United States for any month during any part of which the member served in a combat zone or was hospitalized at any place as a result of wounds, disease, or injury incurred while serving in the combat zone.

(ii) *Commissioned officers.* Compensation not exceeding the monthly dollar limit received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which the officer served in a combat zone or was hospitalized at any place as a result of wounds, disease, or injury incurred while serving in the combat zone. The monthly dollar limit is the monthly amount excludable from the officer's income under section 112(b) as amended. Beginning in 1966, the monthly dollar limit for periods of active service after 1965 became $500. As of September 10, 1993, the monthly dollar limit continues to be $500.

(2) *Time limits on exclusion during hospitalization.* Compensation received for service for any month of hospitalization that begins more than 2 years after the date specified by the President in an Executive Order as the date of the termination of combatant activities in the combat zone cannot be excluded under section 112. Furthermore, compensation received while hospitalized after January 1978 for wounds, disease, or injury incurred in the Vietnam combat zone designated by Executive Order 11216 cannot be excluded under section 112.

(3) *Special terms.* A commissioned warrant officer is not a *commissioned officer* under section 112(b) and is entitled to the exclusion allowed to enlisted personnel under section 112(a). *Compensation*, for the purpose of section 112, does not include pensions and retirement pay. *Armed Forces of the*

United States is defined (and members of the Armed Forces are described) in section 7701(a)(15).

(4) *Military compensation only.* Only compensation paid by the Armed Forces of the United States to members of the Armed Forces can be excluded under section 112, except for compensation paid by an agency or instrumentality of the United States or by an international organization to a member of the Armed Forces whose military active duty status continues during the member's assignment to the agency or instrumentality or organization on official detail. Compensation paid by other employers (whether private enterprises or governmental entities) to members of the Armed Forces cannot be excluded under section 112 even if the payment is made to supplement the member's military compensation or is labeled by the employer as compensation for active service in the Armed Forces of the United States. Compensation paid to civilian employees of the federal government, including civilian employees of the Armed Forces, cannot be excluded under section 112, except as provided in section 112(d)(2) (which extends the exclusion to compensation of civilian employees of the federal government in missing status due to the Vietnam conflict).

(b) *Service in combat zone*—(1) *Active service.* The exclusion under section 112 applies only if active service is performed in a combat zone. A member of the Armed Forces is in active service if the member is actually serving in the Armed Forces of the United States. Periods during which a member of the Armed Forces is absent from duty on account of sickness, wounds, leave, internment by the enemy, or other lawful cause are periods of active service. A member of the Armed Forces in active service in a combat zone who becomes a prisoner of war or missing in action in the combat zone is deemed, for the purpose of section 112, to continue in active service in the combat zone for the period for which the member is treated as a prisoner of war or as missing in action for military pay purposes.

(2) *Combat zone status.* Except as provided in paragraphs (e) and (f) of this section, service is performed in a combat zone only if it is performed in an area which the President of the United States has designated by Executive Order, for the purpose of section 112, as an area in which Armed Forces of the United States are or have been engaged in combat, and only if it is performed on or after the date designated by the President by Executive Order as the date of the commencing of combatant activities in that zone and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in that zone.

(3) *Partial month service.* If a member of the Armed Forces serves in a combat zone for any part of a month, the member is entitled to the exclusion for that month to the same extent as if the member has served in that zone for the entire month. If a member of the Armed Forces is hospitalized for a part of a month as a result of wounds, disease, or injury incurred while serving in that zone, the member is entitled to the exclusion for the entire month.

(4) *Payment time and place.* The time and place of payment are irrelevant in considering whether compensation is excludable under section 112; rather, the time and place of the entitlement to compensation determine whether the compensation is excludable under section 112. Thus, compensation can be excluded under section 112 whether or not it is received outside a combat zone, or while the recipient is hospitalized, or in a year different from that in which the service was rendered for which the compensation is paid, provided that the member's entitlement to the compensation fully accrued in a month during which the member served in the combat zone or was hospitalized as a result of wounds, disease, or injury incurred while serving in the combat zone. For this purpose, entitlement to compensation fully accrues upon the completion of all actions required of the member to receive the compensation. Compensation received by a member of the Armed Forces for services rendered while in active service can be excluded under section 112 even though payment is received subsequent to discharge or release from active service. Compensation credited to a deceased member's account for a period subsequent to the established date of the member's death and received by the member's estate can be excluded from the gross income of the estate under section 112 to the same extent that it would have been excluded from the gross income of the member had the member lived and received the compensation.

(5) *Examples of combat zone compensation.* The rules of this section are illustrated by the following examples:

Example 1. On January 5, outside of a combat zone, an enlisted member received basic pay for active duty services performed from the preceding December 1 through December 31. On December 4 (and no other date), the member performed services within a combat zone. The member may exclude from income the entire payment received on January 5, although the member served in the combat zone only one day during December, received the payment outside of the combat zone, and received the payment in a year other than the year in which the combat zone services were performed.

Example 2. From March through December, an enlisted member became entitled to 25 days of annual leave while serving in a combat zone. The member used all 25 days of leave in the following year. The member may exclude from income the compensation received for those 25 days, even if the member performs no services in the combat zone in the year the compensation is received.

Example 3. From March through December, a commissioned officer became entitled to 25 days of annual leave while serving in a combat zone. During that period the officer also received basic pay of $1,000 per month from which the officer excluded from income $500 per month (exhausting the monthly dollar limit under section 112 for that period). The officer used all 25 days of leave in the following year. The officer may not exclude from income any compensation received in the following year related to those 25 days of leave, since the officer had already excluded from income the maximum amount of combat zone compensation for the period in which the leave was earned.

Example 4. In November, while serving in a combat zone, an enlisted member competing for a cash award submitted an employee suggestion. After November, the member neither served in a combat zone nor was hospitalized for wounds incurred in the combat zone. In June of the following year, the member's suggestion was selected as the winner of the competition and the award was paid. The award can be excluded from income as combat zone compensation although granted and received outside of the combat zone, since the member completed the necessary action to win the award (submission of the suggestion) in a month during which the member served in the combat zone.

Example 5. In July, while serving in a combat zone, an enlisted member voluntarily reenlisted. After July, the member neither served in a combat zone nor was hospitalized for wounds incurred in the combat zone. In February of the following year, the member received a bonus as a result of the July reenlistment. The reenlistment bonus can be excluded from income as combat zone compensation although received outside of the combat zone, since the member completed the necessary action for entitlement to the reenlistment bonus in a month during which the member served in the combat zone.

Example 6. In July, while serving outside a combat zone, an enlisted member voluntarily reenlisted. In February of the following year, the member, while performing services in a combat zone, received a bonus as a result of the July reenlistment. The reenlistment bonus cannot be excluded from income as combat zone compensation although received while

serving in the combat zone, since the member completed the necessary action for entitlement to the reenlistment bonus in a month during which the member had neither served in the combat zone nor was hospitalized for wounds incurred while serving in a combat zone.

(c) *Hospitalization*—(1) *Presumption of combat zone injury.* If an individual is hospitalized for wound, disease, or injury while serving in a combat zone, the wound, disease, or injury will be presumed to have been incurred while serving in a combat zone, unless the contrary clearly appears. In certain cases, however, a wound, disease, or injury may have been incurred while serving in a combat zone even though the individual was not hospitalized for it while so serving. In exceptional cases, a wound, disease, or injury will not have been incurred while serving in a combat zone even though the individual was hospitalized for it while so serving.

(2) *Length of hospitalization.* An individual is hospitalized only until the date the individual is discharged from the hospital.

(3) *Examples of combat zone injury.* The rules of this paragraph (c) are illustrated by the following examples:

Example 1. An individual is hospitalized for a disease in the combat zone where the individual has been serving for three weeks. The incubation period of the disease is two to four weeks. The disease is incurred while serving in the combat zone.

Example 2. The facts are the same as in *Example 1* except that the incubation period of the disease is one year. The disease is not incurred while serving in the combat zone.

Example 3. A member of the Air Force, stationed outside the combat zone, is shot while participating in aerial combat over the combat zone, but is not hospitalized until returning to the home base. The injury is incurred while serving in a combat zone.

Example 4. An individual is hospitalized for a disease three weeks after having departed from a combat zone. The incubation period of the disease is two to four weeks. The disease is incurred while serving in a combat zone.

(d) *Married members.* The exclusion under section 112 applies without regard to the marital status of the recipient of the compensation. If both spouses meet the requirements of the statute, then each spouse is entitled to the benefit of an exclusion. In the case of a husband and wife domiciled in a State recognized for Federal income tax purposes as a community property State, any exclusion from gross income under section 112 operates before apportionment of the gross income of the spouses under community property law. For example, a husband and wife are domiciled in a community property State and the member spouse is entitled, as a commissioned officer, to the benefit of the exclusion under section 112(b) of $500 for each month. The member receives $7,899 as compensation for active service for 3 months in a combat zone. Of that amount, $1,500 is excluded from gross income under section 112(b) and $6,399 is taken into account in determining the gross income of both spouses.

(e) *Service in area outside combat zone*—(1) *Combat zone treatment.* For purposes of section 112, a member of the Armed Forces who performs military service in an area outside the area designated by Executive Order as a combat zone is deemed to serve in that combat zone while the member's service is in direct support of military operations in that zone and qualifies the member for the special pay for duty subject to hostile fire or imminent danger authorized under section 310 of title 37 of the United States Code, as amended (37 U.S.C. 310) (hostile fire/imminent danger pay).

(2) *Examples of combat zone treatment.* The examples in this paragraph (e)(2) are based on the following circumstances: Certain areas, airspace, and adjacent waters are designated as a combat zone for purposes of section 112 as of May 1. Some members of the Armed Forces are stationed in the combat zone; others are stationed in two foreign countries outside the combat zone, named Nearby Country and Destination Country.

Example 1. B is a member of an Armed Forces ground unit stationed in the combat zone. On May 31, B's unit crosses into Nearby Country. B performs military service in Nearby Country in direct support of the military operations in the combat zone from June 1 through June 8 that qualifies B for hostile fire/imminent danger pay. B does not return to the combat zone during June. B is deemed to serve in the combat zone from June 1 through June 8. Accordingly, B is entitled to the exclusion under section 112 for June. Of course, B is also entitled to the exclusion for any month (May, in this example) in which B actually served in the combat zone.

Example 2. B is a member of an Armed Forces ground unit stationed in the combat zone. On May 31, B's unit crosses into Nearby Country. On June 1, B is wounded while performing military service in Nearby Country in direct support of the military operations in the combat zone that qualifies B for hostile fire/imminent danger pay. On June 2, B is transferred for treatment to a hospital in the United States. B is hospitalized from June through October for those wounds. B is deemed to have incurred the wounds while serving in the combat zone on June 1. Accordingly, B is entitled to the exclusion under section 112 for June through October. Of course, B is also entitled to the exclusion for any month (May, in this example) in which B actually served in the combat zone.

Example 3. B is stationed in Nearby Country for the entire month of June as a member of a ground crew servicing combat aircraft operating in the combat zone. B's service in Nearby Country during June does not qualify B for hostile fire/imminent danger pay. Accordingly, B is not deemed to serve in the combat zone during June and is not entitled to the exclusion under section 112 for that month.

Example 4. B is assigned to an air unit stationed in Nearby Country for the entire month of June. In June, members of air units of the Armed Forces stationed in Nearby Country fly combat and supply missions into and over Destination Country in direct support of military operations in the combat zone. B flies combat missions over Destination Country from Nearby Country from June 1 through June 8. B's service qualifies B for hostile fire/imminent danger pay. Accordingly, B is deemed to serve in the combat zone during June and is entitled to the exclusion under section 112. The result would be the same if B were to fly supply missions into Destination Country from Nearby Country in direct support of operations in the combat zone qualifying B for hostile fire/imminent danger pay.

Example 5. Assigned to an air unit stationed in Nearby Country, B was killed in June when B's plane crashed on returning to the airbase in Nearby Country. B was performing military service in direct support of the military operations in the combat zone at the time of B's death. B's service also qualified B for hostile fire/imminent danger pay. B is deemed to have died while serving in the combat zone or to have died as a result of wounds, disease, or injury incurred while serving in the combat zone for purposes of section 692(a) and section 692(b) (providing relief from certain income taxes for members of the Armed Forces dying in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone) and section 2201 (providing relief from certain estate taxes for members of the Armed Forces dying in a combat zone or by reason of combat-zone-incurred wounds). The result would be the same if B's mission had been a supply mission instead of a combat mission.

Example 6. In June, B was killed as a result of an off-duty automobile accident while leaving the airbase in Nearby Country shortly after returning from a mission over Destination Country. At the time of B's death, B was not performing military duty qualifying B for hostile fire/imminent danger pay. B is not deemed to have died while serving in the combat zone or to have died as the result of wounds, disease, or injury incurred while serving in the combat zone. Accordingly, B does not qualify for the benefits of section 692(a), section 692(b), or section 2201.

Example 7. B performs military service in Nearby Country from June 1 through June 8 in direct support of the military operations in the combat zone. Nearby Country is designated as an area in which members of the Armed Forces qualify for hostile fire/imminent danger pay due to imminent

danger, even though members in Nearby Country are not subject to hostile fire. B is deemed to serve in the combat zone from June 1 through June 8. Accordingly, B is entitled to the exclusion under section 112 for June.

(f) *Nonqualifying presence in combat zone*—(1) *Inapplicability of exclusion.* The following members of the Armed Forces are not deemed to serve in a combat zone within the meaning of section 112(a)(1) or section 112(b)(1) or to be hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone within the meaning of section 112(a)(2) or section 112(b)(2)—

(i) Members present in a combat zone while on leave from a duty station located outside a combat zone;

(ii) Members who pass over or through a combat zone during the course of a trip between two points both of which lie outside a combat zone; or

(iii) Members present in a combat zone solely for their own personal convenience.

(2) *Exceptions for temporary duty or special pay.* Paragraph (f)(1) of this section does not apply to members of the Armed Forces who—

(i) Are assigned on official temporary duty to a combat zone (including official temporary duty to the airspace of a combat zone); or

(ii) Qualify for hostile fire/imminent danger pay.

(3) *Examples of nonqualifying presence and its exceptions.* The examples in this paragraph (f)(3) are based on the following circumstances: Certain areas, airspace, and adjacent waters are designated as a combat zone for purposes of section 112 as of May 1. Some members of the Armed Forces are stationed in the combat zone; others are stationed in two foreign countries outside the combat zone, named Nearby Country and Destination Country.

Example 1. B is a member of the Armed Forces assigned to a unit stationed in Nearby Country. On June 1, B voluntarily visits a city within the combat zone while on leave. B is not deemed to serve in a combat zone since B is present in a combat zone while on leave from a duty station located outside a combat zone.

Example 2. B is a member of the Armed Forces assigned to a unit stationed in Nearby Country. During June, B takes authorized leave and elects to spend the leave period by visiting a city in the combat zone. While on leave in the combat zone, B is subject to hostile fire qualifying B for hostile fire/imminent danger pay. Although B is present in the combat zone while on leave from a duty station outside the combat zone, B qualifies for the exclusion under section 112 because B qualifies for hostile fire/imminent danger pay while in the combat zone.

Example 3. B is a member of the Armed Forces assigned to a ground unit stationed in the combat zone. During June, B takes authorized leave and elects to spend the leave period in the combat zone. B is not on leave from a duty station located outside a combat zone, nor is B present in a combat zone solely for B's own personal convenience. Accordingly, B's combat zone tax benefits continue while B is on leave in the combat zone.

Example 4. B is assigned as a navigator to an air unit stationed in Nearby Country. On June 4, during the course of a flight between B's home base in Nearby Country and another base in Destination Country, the aircraft on which B serves as a navigator flies over the combat zone. B is not on official temporary duty to the airspace of the combat zone and does not qualify for hostile fire/imminent danger pay as a result of the flight. Accordingly, B is not deemed to serve in a combat zone since B passes over the combat zone during the course of a trip between two points both of which lie outside the combat zone without either being on official temporary duty to the combat zone or qualifying for hostile fire/imminent danger pay.

Example 5. B is a member of the Armed Forces assigned to a unit stationed in Nearby Country. B enters the combat zone on a 3-day pass. B is not on official temporary duty and does not qualify for hostile fire/imminent danger pay while present in the combat zone. Accordingly, B is not deemed to serve in a combat zone since B is present in the combat zone solely for B's own personal convenience.

Example 6. B, stationed in Nearby Country, is a military courier assigned on official temporary duty to deliver military pouches in the combat zone and in Destination Country. On June 1, B arrives in the combat zone from Nearby Country, and on June 2, B departs for Destination Country. Although B passes through the combat zone during the course of a trip between two points outside the combat zone, B is nevertheless deemed to serve in a combat zone while in the combat zone because B is assigned to the combat zone on official temporary duty.

Example 7. B is a member of an Armed Forces ground unit stationed in Nearby Country. On June 1, B took authorized leave and elected to spend the leave period by visiting a city in the combat zone. On June 2, while on leave in the combat zone, B was wounded by hostile fire qualifying B for hostile fire/imminent danger pay. On June 3, B was transferred for treatment to a hospital in the United States. B is hospitalized from June through October for those wounds. Although B was present in the combat zone while on leave from a duty station outside the combat zone, B is deemed to have incurred the wounds while serving in the combat zone on June 2, because B qualified for hostile fire/imminent danger pay while in the combat zone. Accordingly, B is entitled to the exclusion under section 112 for June through October.

Example 8. The facts are the same as in *Example 7* except that B dies on September 1 as a result of the wounds incurred in the combat zone. B is deemed to have died as a result of wounds, disease, or injury incurred while serving in the combat zone for purposes of section 692(a) and section 692(b) (providing relief from certain income taxes for members of the Armed Forces dying in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone) and section 2201 (providing relief from certain estate taxes for members of the Armed Forces dying in a combat zone or by reason of combat-zone-incurred wounds).

Michael P. Dolan,

Commissioner of Internal Revenue.

Approved: August 19, 1993.

Samuel Y. Sessions,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–22070 Filed 9–9–93; 8:45 am]

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Office of Foreign Assets Control

31 CFR Parts 500, 515, 550, 575, 580, and 585

Foreign Assets Control, Cuban Assets Control, Libyan Sanctions, Iraqi Sanctions, Haitian Transactions, and Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final Rule; amendment.

SUMMARY: This rule amends the Foreign Assets Control Regulations, the Cuban Assets Control Regulations, the Libyan Sanctions Regulations, the Iraqi Sanctions Regulations, the Haitian Transactions Regulations, and the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (collectively, the "Regulations"), by standardizing and supplementing reporting requirements for U.S. financial institutions holding blocked accounts. Under the new requirements, a U.S. financial institution must provide written notification to the Office of Foreign Assets Control of any transfer into a blocked account within 10 days of the transfer. This rule also amends the Regulations by instituting standard registration and reporting requirements applicable to all persons holding blocked property, including the annual designation of a contact individual by each person holding blocked property.

EFFECTIVE DATE: September 10, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, Tel.: 202/622–2490, Loren L. Dohm, Chief of Blocked Assets, Tel.: 202/622–2440, or William B. Hoffman, Chief Counsel, Tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Currently, the notification requirements for U.S. financial institutions holding blocked accounts vary significantly from program to program, among the Foreign Assets Control Regulations, 31 CFR part 500, the Cuban Assets Control Regulations, 31 CFR part 515, the Libyan Sanctions Regulations, 31 CFR part 550, the Iraqi Sanctions Regulations, 31 CFR part 575, the Haitian Transactions Regulations, 31 CFR part 580, and the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations, 31 CFR part 585. This rule amends the notification requirements to ensure that such requirements are consistent from program to program. Additionally, this rule institutes standardized reporting and registration requirements for persons holding blocked property and requires that holders of blocked property annually provide notice of an individual who is responsible for providing information required by the Office of Foreign Assets Control.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., does not apply.

The rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act. For this reason, the collections of information contained in §§ 500.508, 500.603, 515.508, 515.603, 550.511, 550.603, 575.503, 575.606, 580.503, 580.603, 585.503, and 585.603 (collectively the "sections") are being submitted to the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Comments concerning the collection of information and the accuracy of estimated average annual burden, and suggestions for reducing this burden should be directed to OMB, Paperwork Reduction Project (1505-****), Washington, DC 20503, with copies to the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220. Any such comments should be submitted no later than November 9, 1993. Notice of OMB action on these requests will be published in the **Federal Register**.

The collections of information in the sections is required by the Office of Foreign Assets Control standardize reporting on blocked property. The likely respondents are individuals, business organizations, and financial institutions. Estimated total annual reporting burden for the sections: 900 hours.

The estimated annual burden per respondent varies from 15 minutes to three hours, depending on individual circumstances, with an estimated average of 2 hours.

Estimated number of respondents: 350.

Estimated annual frequency of response: 1 to 12.

List of Subjects in 31 CFR Parts 500, 515, 550, 575, 580, 585

Administrative practice and procedure, Banks, Blocking of assets, Cambodia, Cuba, Federal Republic of Yugoslavia (Serbia and Montenegro), Haiti, Iraq, North Korea, Reporting and recordkeeping requirements, Vietnam.

For the reasons set forth in the preamble, 31 CFR chapter V is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 is revised to read as follows:

Authority: 50 U.S.C. App. 1–44; E.O. 9193, 3 CFR, 1938–1943, Comp., p. 1174; E.O. 9989, 3 CFR, 1943–1948, Comp., p. 748.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (f) of § 500.508 is revised to read as follows:

§ 500.508 Payments to blocked accounts in domestic banks.

* * * * *

(f) Banking institutions receiving instructions to execute payments or transfers under paragraph (a) of this section must provide written notification to the Office of Foreign Assets Control, Compliance Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.—Annex, Washington DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into a new or existing blocked account established in the name of the designated national pursuant to the requirements of this part and shall provide the account number, the name of the account, the location of the account, the name and address of the transferee banking institution, the date of the deposit, the amount of the payment transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 500.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

Subpart F—Reports

3. Section 500.603 is added to Subpart F to read as follows:

§ 500.603 Registration of persons holding blocked property subject to § 500.201 or § 500.202.

(a) Any individual holding property subject to § 500.201 or § 500.202 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the later of October 12, 1993, or 10 days after the date such property is received or becomes subject to § 500.201 or § 500.202.

(b) Any person, other than an individual, holding property subject to § 500.201 or § 500.202, must register the name, title, address, and telephone number of the individual designated to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the later of October 12, 1993, or, unless notification is being given pursuant to § 500.508, 10 days after the date such property is received and becomes subject to § 500.201 or § 500.202.

(c) Registrations with the Office of Foreign Assets Control pursuant to paragraphs (a) and (b) of this section must be renewed annually on or before July 1.

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 is revised to read as follows:

Authority: 50 U.S.C. App. 5; secs. 1701–1712, Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6001–6010); 22 U.S.C. 2370(a); Proc. 3447, 3 CFR, 1959–1963 Comp., p. 157; E.O. 9193, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 3 CFR, 1943–1948 Comp., p. 748; E.O. 12854, 58 FR 36587, July 7, 1993.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (f) is added to § 515.508 to read as follows:

§ 515.508 Payments to blocked accounts in domestic banks.

* * * * *

(f) Banking institutions receiving instructions to execute payments or transfers under paragraph (a) of this section must provide written notification to the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW—Annex, Washington DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into a new or existing blocked account established in the name of the designated national pursuant to the requirements of this part and shall provide the account number, the name of the account, the location of the account, the name and address of the transferee banking institution, the date of the deposit, the amount of the payment transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 515.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

Subpart F—Reports

3. Section 515.603 is added to subpart F to read as follows:

§ 515.603 Registration of persons holding blocked property subject to § 515.201 or § 515.202.

(a) Any individual holding property subject to § 515.201 or § 515.202 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or 10 days after the date such property is received or becomes subject to § 515.201 or § 515.202.

(b) Any person, other than an individual, holding property subject to § 515.201 or § 515.202, must register the name, title, address, and telephone number of the individual designated to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or, unless notification is being given pursuant to § 515.508, 10 days after the date such property is received and becomes subject to § 515.201 or § 515.202.

(c) Registrations with the Office of Foreign Assets Control pursuant to paragraphs (a) and (b) of this section must be renewed annually on or before July 1.

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C.287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa–8 and 2349aa–9; 3 U.S.C. 301; E.O. 12543, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 3 CFR, 1992 Comp., p. 294.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (g) of § 550.511 is revised to read as follows:

§ 550.511 Payments to blocked accounts in domestic banks.

* * * * *

(g) Banking institutions receiving instructions to execute payments or transfers under paragraph (a) of this section must provide written notification to the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW—Annex, Washington DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into a new or existing blocked account established in the name of the individual or entity of the Government of Libya pursuant to the requirements of this part and shall provide the account number, the name of the account, the location of the account, the name and address of the transferee banking institution, the date of the deposit, the amount of the payment transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 550.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

Subpart F—Reports

3. Section 550.603 is added to subpart F to read as follows:

§ 550.603 Registration of persons holding blocked property subject to § 550.209.

(a) Any individual holding property subject to § 550.209 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993 or 10 days after the date such property is received or becomes subject to § 550.209.

(b) Any person, other than an individual, holding property subject to § 550.209, must register the name, title, address, and telephone number of the individual designated to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993 or, unless notification is being given pursuant to § 550.511, 10 days after the date such property is received and becomes subject to § 550.209.

(c) Registrations with the Office of Foreign Assets Control, pursuant to paragraphs (a) and (b) of this section, must be renewed annually on or before July 1.

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; Pub. L. 101–513, 104 Stat. 2047–2055; 3 U.S.C. 301; E.O. 12722, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 3 CFR, 1990 Comp., p. 297; E.O. 12817, 3 CFR, 1992 Comp., p. 317.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (h) of § 575.503 is revised to read as follows:

§ 575.503 Payments and transfers to blocked account in U.S. financial institutions.

* * * * *

(h) Banking institutions receiving instructions to execute payments or transfers under paragraph (a) of this section must provide written notification to the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW—Annex, Washington DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into a new or existing blocked account established in the name of the individual or entity of the Government of Iraq pursuant to the requirements of this part and shall provide the account number, the name of the account, the location of the account, the name and address of the transferee banking institution, the date of the deposit, the amount of the payment transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 575.606, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

Subpart F—Reports

3. Section 575.606 is added to subpart F to read as follows:

§ 575.606 Registration of persons holding blocked property subject to § 575.201.

(a) Any individual holding property subject to § 575.201 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or 10 days after the date such property is received or becomes subject to § 575.201.

(b) Any person, other than an individual, holding property subject to § 575.201, must register the name, title, address, and telephone number of the individual designated to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or, unless notification is being given pursuant to § 575.503, 10 days after the date such property is received and becomes subject to § 575.201.

(c) Registrations with the Office of Foreign Assets Control, pursuant to paragraphs (a) and (b) of this section, must be renewed annually on or before July 1.

PART 580—HAITIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 580 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; 3 U.S.C. 301; E.O. 12775, 3 CFR, 1991 Comp., p. 349; E.O. 12779, 3 CFR, 1991 Comp., p. 367; E.O. 12853, 58 FR 35843–35444, July 2, 1993.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (h) of § 580.503 is revised to read as follows:

§ 580.503 Payments and transfers to blocked account in U.S. financial institutions.

* * * * *

(h) Banking institutions receiving instructions to execute payments or transfers under paragraph (a) of this section must provide written notification to the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW—Annex, Washington DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into a new or existing blocked account established in the name of the individual or entity of the Government of Haiti pursuant to the requirements of this part and shall provide the account number, the name of the account, the location of the account, the name and address of the transferee banking institution, the date of the deposit, the amount of the payment transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 580.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

Subpart F—Reports

3. Section 580.603 is revised to read as follows:

§ 580.603 Registration of persons holding blocked property subject to § 580.201.

(a) Any individual holding property subject to § 580.201 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or 10 days after the date such property is received or becomes subject to § 580.201.

(b) Any person, other than an individual, holding property subject to § 580.201, must register the name, title, address, and telephone number of the individual designated under § 580.601(b) to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or, unless notification is being given pursuant to § 580.503, 10 days after the date such property is received and becomes subject to § 580.201.

(c) Registrations with the Office of Foreign Assets Control, pursuant to paragraphs (a) and (b) of this section, must be renewed annually on or before July 1.

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) SANCTIONS REGULATIONS

1. The authority citation for part 585 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 3 U.S.C. 301; E.O. 12808, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, January 21, 1993; E.O. 12846, 58 FR 25771, April 27, 1993.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Paragraph (a) of § 585.503 is revised to read as follows:

§ 585.503 Payments and transfers to blocked account in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic

resources or assets into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account may only be made to another blocked account held in the same name on the books of the same U.S. financial institution. This authorization is subject to the condition that written notification from the U.S. financial institution receiving an authorized payment or transfer is furnished to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, within 10 days from the value date of the payment or transfer. This notification shall confirm that the payment or transfer has been deposited in a blocked account pursuant to this section and § 585.203 and shall provide the account number, the name and address of the blocked person in whose name the account is held, the name and address of the transferee U.S. financial institution, the name and address of the transferor financial institution, the amount of the payment or transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 585.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

* * * * *

Subpart F—Reports

3. Section 585.603 is revised to read as follows:

§ 585.603 Registration of persons holding blocked property subject to § 585.201.

(a) Any individual holding property subject to § 585.201 must register his or her name, address, and telephone number with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or 10 days after the date such property is received or becomes subject to § 585.201.

(b) Any person, other than an individual, holding property subject to § 585.201, must register the name, title, address, and telephone number of the individual designated under § 585.601(b) to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, by the later of October 12, 1993, or, unless notification is being given pursuant to § 585.503, 10 days after the date such property is received and becomes subject to § 585.201.

(c) Registrations with the Office of Foreign Assets Control, pursuant to paragraphs (a) and (b) of this section, must be renewed annually on or before July 1.

Dated: August 25, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: August 28, 1993.

Ronald K. Noble,

Assistant Secretary for Enforcement.

[FR Doc. 93–22105 Filed 9–7–93; 9:19 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPPTS–82040A; FRL–4637–1]

Preliminary Assessment Information and Health and Safety Data Reporting; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This notice makes certain modifications to a final rule published in the **Federal Register** of May 14, 1993: the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule.

EFFECTIVE DATE: This rule will become effective on October 12, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. E–543, Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 14, 1993 (58 FR 28511), EPA issued a final rule which added chemicals to two model information-gathering rules: the Toxic Substances Control Act (TSCA) section 8(d) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule. This document makes the following modifications to that rule: (1) Certain chemicals listed in § 716.120(d) under the category "Siloxanes" are exempt from reporting acute oral, dermal, and inhalation information as well as primary eye and dermal irritation information under the section 8(d) rule; (2) the reporting period for the chemicals listed under the category "Siloxanes" under § 712.30(x) is extended for 120 days from the effective date of this amendment (February 28, 1993) and for 180 days from the effective date of this amendment (April 29, 1994) under § 716.120(d); (3) the CAS number for non-end-blocked siloxanes listed under the siloxanes category in §§ 712.30(x) and 716.120(d) as 7013–67–8 is corrected to read 70131–67–8; (4) the chemicals, dimethicone (CAS No. 9006–65–9), polydimethylsiloxane (CAS No. 9016–00–6), and dimethylmethyltrifluoropropylsiloxane (CAS No. not available) are removed from the siloxane category in §§ 712.30(x) and 716.120(d); (5) the chemical, dimethylmethyl 3,3,3-trifluoropropyl (CAS No. 115361–68–7) is added to §§ 712.30(x) and 716.120(d) under the category siloxanes.

EPA is not requiring the reporting of acute oral, dermal, and inhalation toxicity studies, and primary eye and dermal irritation studies on certain of the listed siloxanes because the primary intended data user, the Food and Drug Administration (FDA), has expressed no need for the data at this time. See the regulatory text of this document for the specific siloxanes which are subjects of this "special exemption."

The extensions of the reporting periods for the chemicals listed under the category "Siloxanes" under §§ 712.30(x) and 716.120(d) are made in response to numerous requests received by EPA and to allow respondents to report per the other amendments contained herein. In addition, certain siloxane producers are in the process of creating a data base for siloxane health and safety data reporting which EPA, the ITC, and FDA believe will significantly aid data review; the extensions will facilitate the development of this data base. These extensions also apply to companies which have been previously granted extensions of the reporting periods.

Additionally, the 30th ITC report listed CAS numbers for dimethicone (9006–65–9) and polydimethylsiloxane (9016–00–6). These chemicals are already listed as dimethyl silicones and siloxanes and bear CAS number 63148–62–9. Therefore, EPA is removing dimethicone (CAS No. 9006–65–9) and

polydimethylsiloxane (CAS No. 9016–99–6) from the PAIR and section 8(d) rules.

Finally, the 30th ITC report recommended testing for dimethylmethyltrifluoropropylsiloxane but did not list a CAS number. The ITC has indicated that it needs PAIR reports and section 8(d) studies for siloxanes and silicones, dimethyl 3,3,3-trifluoropropyl (CAS No. 115361–68–7), but not on dimethylmethyltrifluoropropylsiloxane. Therefore, this notice removes dimethylmethyltrifluoropropylsiloxane (no CAS number) from section 8 rules and adds dimethyl 3,3,3-trifluoropropyl (CAS No. 115361–68–7) to the rules.

I. Rulemaking Record

The following documents constitute the record for the rule (docket control number OPPTS–82040A). All of these documents are available to the public in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. E–G102, 401 M St., SW., Washington, DC.

1. This final rule.

2. The economic analysis for the rule.

3. The Thirtieth Report of the ITC.

4. Letters requesting reporting extensions.

5. Internal Agency memorandum.

II. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of substances recommended by the ITC is provided for in 40 CFR 712.30(c) and 716.105(b).

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control numbers 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 19 hours for PAIR per response and 60.72 hours for section 8(d), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Parts 712 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: September 2, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 712 and 716 are amended to read as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by revising the siloxanes category under paragraph (x) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(x) * * *

CAS No.	Substance	Effective date	Reporting date
*	* * * * *		*
Siloxanes:			
107–46–0	Hexamethyldisiloxane	10/12/93	2/28/94
107–50–6	Tetradecamethylcycloheptasiloxane	10/12/93	2/28/94
107–51–7	Octamethyltrisiloxane	10/12/93	2/28/94
107–52–8	Tetradecamethylhexasiloxane	10/12/93	2/28/94
107–53–9	Tetracosamethylundecasiloxane	10/12/93	2/28/94
141–62–8	Decamethyltetrasiloxane	10/12/93	2/28/94
141–63–9	Dodecamethylpentasiloxane	10/12/93	2/28/94
540–97–6	Dodecamethylcyclohexasiloxane	10/12/93	2/28/94
541–01–5	Hexadecamethylheptasiloxane	10/12/93	2/28/94
541–02–6	Decamethylcyclopentasiloxane	10/12/93	2/28/94
541–05–9	Hexamethylcyclotrisiloxane	10/12/93	2/28/94
546–56–5	Octaphenylcyclotetrasiloxane	10/12/93	2/28/94
556–67–2	Octamethylcyclotetrasiloxane	10/12/93	2/28/94
556–68–3	Hexadecamethylcyclooctasiloxane	10/12/93	2/28/94
556–69–4	Octadecamethyloctasiloxane	10/12/93	2/28/94
556–70–7	Docosamethyldecasiloxane	10/12/93	2/28/94
556–71–8	Octadecamethylcyclononasiloxane	10/12/93	2/28/94
999–97–3	Hexamethyldisilazane	10/12/93	2/28/94
2370–88–9	Tetramethylcyclotetrasiloxane	10/12/93	2/28/94
2374–14–3	Trifluoropropylmethylcyclotrisiloxane	10/12/93	2/28/94
2471–08–1	Hexacosamethyldodecasiloxane	10/12/93	2/28/94

CAS No.	Substance	Effective date	Reporting date
2471-09-2	Octacosamethyltridecasiloxane	10/12/93	2/28/94
2471-10-5	Triacontamethyltetradecasiloxane	10/12/93	2/28/94
2471-11-6	Dotriacontamethylpentadecasiloxane	10/12/93	2/28/94
2554-06-5	Methylvinylcyclosiloxane	10/12/93	2/28/94
2627-95-4	Tetramethyldivinyldisiloxane	10/12/93	2/28/94
2652-13-3	Eicosamethylnonasiloxane	10/12/93	2/28/94
70131-67-8	Non-end-blocked siloxanes	10/12/93	2/28/94
9004-73-3	Methylpolysiloxane	10/12/93	2/28/94
9016-00-6	Polydimethylsiloxane	10/12/93	2/28/94
18766-38-6	Docosamethylcycloundecasiloxane	10/12/93	2/28/94
18772-36-6	Eicosamethylcyclodecasiloxane	10/12/93	2/28/94
18844-04-7	Hexatriacontamethylheptadecasiloxane	10/12/93	2/28/94
18919-94-3	Tetracosamethylcyclododecasiloxane	10/12/93	2/28/94
23523-12-8	Hexatriacontamethylcyclooctadecasiloxane	10/12/93	2/28/94
23523-14-0	Triacontamethylcyclopentadecasiloxane	10/12/93	2/28/94
23732-94-7	Hexacosamethylcyclotridecasiloxane	10/12/93	2/28/94
36938-50-8	Tetratriacontamethyl hexadecasiloxane	10/12/93	2/28/94
36938-52-0	Octatriacontamethyl octadecasiloxane	10/12/93	2/28/94
63148-62-9	Dimethyl silicones and siloxanes	10/12/93	2/28/94
67762-90-7	Dimethyl silicones and siloxane, reaction products with silica	10/12/93	2/28/94
67762-94-1	Dimethylmethylvinylsiloxane	10/12/93	2/28/94
68037-59-2	Dimethylhydropolylsiloxane	10/12/93	2/28/94
68037-74-1	Dimethylpolysiloxanes	10/12/93	2/28/94
68083-14-7	Dimethyldiphenylsiloxane	10/12/93	2/28/94
69430-24-6	Cyclopolydimethylsiloxane	10/12/93	2/28/94
115361-68-7	Dimethylmethyl 3,3,3-trifluoropropyl	10/12/93	2/28/94
not available	Tetracontamethylnonadecasiloxane	10/12/93	2/28/94
not available	Octacosamethylcyclotetradecasiloxane	10/12/93	2/28/94
not available	Dotetracontamethyleicosasiloxane	10/12/93	2/28/94
not available	Tetracontamethylcycloeicosasiloxane	10/12/93	2/28/94
not available	Octatriacontamethylcyclononadecasiloxane	10/12/93	2/28/94
not available	Tetratriacontamethylcycloheptadecasiloxane	10/12/93	2/28/94
not available	Dotriacontamethylcyclohexadecasiloxane	10/12/93	2/28/94
not available	Polymethyloctadecylsiloxane	10/12/93	2/28/94

* * * * * * *

PART 716—[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.20 is amended by revising pargraph (b)(2) to read as follows:

§ 716.20 Studies not subject to the reporting requirements.

* * * * *

(b) * * *

(2) For the specified chemicals in § 716.120(d) under the category "Siloxanes," acute oral, dermal, and inhalation toxicity studies and primary eye and dermal irritation studies.

c. Section 716.120 is amended by revising the siloxanes category under paragraph (d) to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(d) * * *

Category	CAS No.	Special exemptions	Effective date	Sunset date
* * *	*	*	*	*
Siloxanes:				
Cyclopolydimethylsiloxane	69430-24-6		10/12/93	10/12/03
Decamethylcyclopentasiloxane	541-02-6		10/12/93	10/12/03
Decamethyltetrasiloxane	141-62-8		10/12/93	10/12/03
Dimethyldiphenylsiloxane	68083-14-7		10/12/93	10/12/03
Dimethylhydropolylsiloxane	68037-59-2		10/12/93	10/12/03
Dimethylmethyl 3,3,3-trifluoropropyl	115361-68-7		10/12/93	10/12/03
Dimethylmethylvinylsiloxane	67762-94-1		10/12/93	10/12/03
Dimethylpolysiloxanes	68037-74-1	§ 716.20(b)(2) applies	10/12/93	10/12/03
Dimethyl silicones and siloxanes	63148-62-9		10/12/93	10/12/03
Dimethyl silicones and siloxane, reaction products with silica	67762-90-7	§ 716.20(b)(2) applies	10/12/93	10/12/03
Docosamethylcycloundecasiloxane	18766-38-6	§ 716.20(b)(2) applies	10/12/93	10/12/03

Category	CAS No.	Special exemptions	Effective date	Sunset date
Docosamethyldecasiloxane	556–70–7	§716.20(b)(2) applies	10/12/93	10/12/03
Dodecamethylcyclohexasiloxane	540–97–6		10/12/93	10/12/03
Dodecamethylpentasiloxane	141–63–9		10/12/93	10/12/03
Dotetracontamethyleicosasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Dotriacontamethylcyclohexadecasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Dotriacontamethylpentadecasiloxane	2471–11–6	§716.20(b)(2) applies	10/12/93	10/12/03
Eicosamethylcyclodecasiloxane	18772–36–6	§716.20(b)(2) applies	10/12/93	10/12/03
Eicosamethylnonasiloxane	2652–13–3	§716.20(b)(2) applies	10/12/93	10/12/03
Hexacosamethylcyclotridecasiloxane	23732–94–7	§716.20(b)(2) applies	10/12/93	10/12/03
Hexacosamethyldodecasiloxane	2471–08–1	§716.20(b)(2) applies	10/12/93	10/12/03
Hexadecamethylcyclooctasiloxane	556–68–3	§716.20(b)(2) applies	10/12/93	10/12/03
Hexadecamethylheptasiloxane	541–01–5	§716.20(b)(2) applies	10/12/93	10/12/03
Hexamethylcyclotrisiloxane	541–05–9		10/12/93	10/12/03
Hexamethyldisilazane	999–97–3		10/12/93	10/12/03
Hexamethyldisiloxane	107–46–0		10/12/93	10/12/03
Hexatriacontamethylcyclooctadecasiloxane	23523–12–8	§716.20(b)(2) applies	10/12/93	10/12/03
Hexatriacontamethylheptadecasiloxane	18844–04–7	§716.20(b)(2) applies	10/12/93	10/12/03
Methylpolysiloxane	9004–73–3		10/12/93	10/12/03
Methylvinylcyclosiloxane	2554–06–5		10/12/93	10/12/03
Non-end-blocked siloxanes	70131–67–8	§716.20(b)(2) applies	10/12/93	10/12/03
Octacosamethylcyclotetradecasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Octacosamethyltridecasiloxane	2471–09–2	§716.20(b)(2) applies	10/12/93	10/12/03
Octadecamethylcyclononasiloxane	556–71–8	§716.20(b)(2) applies	10/12/93	10/12/03
Octadecamethyloctasiloxane	556–69–4	§716.20(b)(2) applies	10/12/93	10/12/03
Octamethyltrisiloxane	107–51–7		10/12/93	10/12/03
Octaphenylcyclotetrasiloxane	546–56–5		10/12/93	10/12/03
Octatriacontamethylcyclononadecasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Octatriacontamethyloctadecasiloxane	36938–52–0	§716.20(b)(2) applies	10/12/93	10/12/03
Polymethyloctadecylsiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Tetracontamethylcycloeicosasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Tetracontamethylnonadecasiloxane	not available	§716.20(b)(2) applies	10/12/93	10/12/03
Tetracosamethylcyclododecasiloxane	18919–94–3	§716.20(b)(2) applies	10/12/93	10/12/03
Tetracosamethylundecasiloxane	107–53–9	§716.20(b)(2) applies	10/12/93	10/12/03
Tetradecamethylcycloheptasiloxane	107–50–6	§716.20(b)(2) applies	10/12/93	10/12/03
Tetradecamethylhexasiloxane	107–52–8	§716.20(b)(2) applies	10/12/93	10/12/03
Tetramethylcyclotetrasiloxane	2370–88–9		10/12/93	10/12/03
Tetramethyldivinyldisiloxane	2627–95–4		10/12/93	10/12/03
Tetratriacontamethylcycloheptadecasiloxane	not available		10/12/93	10/12/03
Tetratriacontamethylhexadecasiloxane	36938–50–8	§716.20(b)(2) applies	10/12/93	10/12/03
Triacontamethylcyclopentadecasiloxane	23523–14–0	§716.20(b)(2) applies	10/12/93	10/12/03
Triacontamethyltetradecasiloxane	2471–10–5	§716.20(b)(2) applies	10/12/93	10/12/03
Trifluoropropylmethylcyclotrisiloxane	2374–14–3		10/12/93	10/12/03

* * * * * * *

[FR Doc. 93–21989 Filed 9–9–93; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 171, 172, 173, 174, and 179

Statement of Enforcement Policy

AGENCY: Federal Railroad Administration (FRA), Transportation.

ACTION: Statement of enforcement policy.

SUMMARY: This notice reminds users of tank cars that new Federal requirements become effective on October 1, 1993, for materials poisonous by inhalation. FRA intends to take action to assure compliance with those requirements.

FOR FURTHER INFORMATION CONTACT: Edward W. Pritchard (Telephone (202–366–9178)) or James H. Rader (Telephone (202–366–9178)), Hazardous Materials Division, FRA, Washington, DC 20590; or Thomas A. Phemister (Telephone (202–366–0635)), Trial Attorney, Office of Chief Counsel, FRA, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In its investigation of the July 26, 1993, release of oleum [1] at Richmond, California, the Federal Railroad Administration learned that some users of tank cars may not have taken appropriate measures to comply with the requirements that become mandatory on October 1, 1993. These regulations require use of upgraded tank cars to transport materials that are poisonous by inhalation (PIH).

The Hazardous Materials Regulations (HMR) were amended on December 21, 1990, with the publication of the final rule in Docket HM–181.[2] This comprehensive proceeding revised the HMR in many areas including new requirements for tank cars transporting

[1] This material, also known as fuming sulfuric acid, becomes poisonous by inhalation at concentrations greater than 30 percent free sulfur trioxide. In this incident, it was the sulfur trioxide fumes that escaped and combined with moisture in the air to form sulfuric acid mist particles that materialized as dense white clouds.

[2] Performance-Oriented Packaging Standards; Changes to Classification, Hazard Communication, Packaging and Handling Requirements Based on UN Standards and Agency Initiative; Docket HM–181, Final Rule, 55 FR 52402, December 21, 1990.

PIH materials. In order to facilitate an orderly transition from pre-HM-181 regulations to the new standards, the Research and Special Programs Administration (RSPA) established an implementation schedule that phased in the mandatory compliance dates for the amendments over a period of several years, starting with 1991. Regulations affecting shipping papers, marking, labelling/placarding and emergency response communications for PIH materials went into effect October 1, 1992. Regulations for packaging PIH materials become mandatory on October 1, 1993.

On and after that date, shippers offering PIH materials must choose from a limited and specific set of tank cars:

- Liquid PIH materials ranked in Hazard Zone A (for example, ethyleneimine) must be transported in DOT 105J tank cars with a 500 psi tank test pressure (or higher), and
- Liquid PIH materials ranked in Hazard Zone B (for example, acetone cyanohydrin) must be transported in DOT 105J tank cars with a 300 pound (or greater) tank test pressure.
- Gaseous PIH materials have similar constraints requiring the use of upgraded tank cars and producers and shippers are cautioned to review the HMR to determine the restrictions for each specific product.

RSPA published a notice of proposed rulemaking on July 12, 1993,[3] that would, if made final in its proposed form, authorize additional tank cars for the transportation of liquid PIH materials in Hazard Zone B. That NPRM does not, however, propose any general extension of the October 1, 1993 deadline. RPSA and FRA are also considering changes to tank cars transporting PIH gases. However, this regulatory effort is only at a preliminary stage and will not affect the October 1, 1993 deadline.[4] Interested persons should refer to these regulatory publications for further information.

FRA is taking this opportunity to remind shippers and car owners of the October 1, 1993, compliance date for packagings (including tank cars) that contain PIH materials and to state our enforcement policy. Packagings not in compliance with the October 1, 1993, deadline may not be loaded with PIH materials. If loaded prior to the compliance deadline, they may continue to destination for unloading. Once unloaded, the packages may not be reloaded until brought into compliance.

The performance-oriented packaging standards were promulgated under the Hazardous Materials Transportation Act.[5] Subsection 110(a) of the Act provides for the assessment of a civil penalty of up to $25,000 for each violation of any regulation issued under the Act. Each day of violation is a separate offense. Subsection 110(b) of the Act provides that any person who knowingly tampers with a marking, label, placard, or description or willfully violates a regulation issued under the Act shall be fined under title 18, United States Code, or imprisoned for not more than 5 years. The FRA may, through the Attorney General, also seek injunctive relief in a Federal district court to enforce rules issued under the railroad safety laws.[6]

It is the policy of the FRA to monitor the activities of railroads, shippers, and tank car manufacturers to safeguard the public from risks associated with the transportation of hazardous materials in commerce and to take actions necessary to assure compliance with the hazardous materials regulations, including those new requirements that become effective on October 1, 1993.

Issued in Washington, DC, on August 30, 1993.

Jolene M. Molitoris,

Administrator.

[FR Doc. 93-21773 Filed 9-9-93; 8:45 am]

BILLING CODE 4910-06-P

[3] Performance Oriented Packaging Standards; Miscellaneous Amendments; Docket HM-181F, Notice of Proposed Rulemaking, 58 FR 37612, July 20, 1993.

[4] Specifications for Tank Cars, Docket HM-175A, ANPRMs published 55 FR 20242, May 15, 1990, and 55 FR 35327, August 29, 1990.

[5] 49 App. U.S.C. 1801 *et seq.*

[6] See 45 U.S.C. 439 and 49 App. U.S.C. 1810.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 921253-2353; ID. 090293B]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Fishing restrictions, request for comments.

SUMMARY: NMFS announces reductions in vessel trip limits for trawl-caught sablefish, which is a component of the deepwater complex (thornyheads, Dover sole, and trawl-caught sablefish) in the groundfish fishery off Washington, Oregon, and California. This action is authorized under the Pacific Coast Groundfish Fishery Management Plan (FMP). The trip limit is designed to keep the catch within the 1993 harvest guideline while extending the fishery as long as possible during the year.

DATES: Effective Date: Effective from 0001 hours (local time) September 8, 1993, until modified, superseded, or rescinded. Comments will be accepted through September 27, 1993.

ADDRESSES: Submit comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN-C15700, Seattle, Washington, 98115-0070; or Dr. Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., suite 4200, Long Beach, California 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations (50 CFR part 663) provide for rapid changes to specific management measures that have been designated "routine." Trip landing and frequency limits for trawl-caught sablefish, Dover sole, and thornyheads, the species comprising the deepwater complex, are among those management measures that have been designated as routine at 50 CFR 663.23(c)(1). Implementation and further adjustment of those measures may occur after consideration at a single Pacific Fishery Management Council (Council) meeting. A trip limit is defined at 50 CFR 663.2 as the total allowable amount of a groundfish species or species complex by weight, or by percentage of weight of fish on board, that may be taken and retained, possessed, or landed from a single fishing trip.

Sablefish, thornyheads, and Dover sole are managed collectively as the deepwater complex because they are often caught together in the trawl fishery. Sablefish are managed with a species harvest guideline of 7,000 metric tons (mt), which, after subtracting a treaty Indian set-aside of 300 mt, is allocated between trawl and nontrawl fisheries. The trawl and nontrawl allocations also are considered harvest guidelines.

On January 1, 1993, the trip limit for the deepwater complex was set at 45,000 pounds (20,412 kg) cumulative in a 2-week period, of which no more than 20,000 pounds (9,072 kg) could be thornyheads. The trip limit for sablefish taken with trawl gear, which was applied to each trip rather than cumulatively over the 2-week period, was 25 percent of the deepwater

complex if more than 1,000 pounds (454 kg) of sablefish were landed. In any landing, no more than 5,000 pounds (2,268 kg) could be sablefish smaller than 22-inches (56 cm) (total length). Catch information presented at the April Council meeting indicated that the trawl allocation for sablefish of 3,886 mt would be exceeded around October.

Consequently, the Council recommended and NMFS imposed a 30 percent reduction to the cumulative trip limit for the deepwater complex, from 45,000 pounds (20,412 kg) per 2-week period to 60,000 pounds (27,216 kg) per 4-week period, hoping for a similar reduction in the catch of sablefish. To avoid an increase in the rate of thornyhead landings, the thornyhead trip limit also was reduced from 20,000 pounds (9,072 kg) cumulative per 2-week period to 35,000 pounds (15,876 kg) cumulative per 4-week period (58 FR 21949, April 26, 1993).

Also at its April meeting, the Council recommended that the Director, NMFS, Northwest Region, make further adjustments to routine management measures before the September Council meeting, in consultation with relevant advisors and interested Council members, if it appeared that a harvest guideline would be reached by October 31, 1993. The best available information on August 31, 1993, indicates that the trawl catch of sablefish through August 21, 1993, was 3,014 mt, 90 percent of the trawl catch for the same period in 1991–1992. However, the trawl allocation is only 75 percent of the annual catch in 1991–1992. Consequently, if landing rates are not curtailed, the trawl allocation of 3,886 mt would be taken near October 20 and the 7,000-mt harvest guideline for sablefish would be reached in mid-November. If no action is taken, the trawl allocation will be exceeded by about 20 percent, and the species harvest guideline by about 8 percent in 1993. The harvest guidelines for sabelfish caught with nontrawl gear, Dover sole, and thornyheads are not expected to be reached.

In consultation with relevant advisors and interested Council members, including the State fishery agency directors of Washington, Oregon, and California, the Regional Director has decided to impose an additional 3,000-pound (1,361 kg) limit on the amount of trawl-caught sablefish that may be landed per trip. This would modify the current trip limit by allowing trawl-caught sablefish landings of either 1,000 pounds (454 kg), or 25 percent of the deepwater complex not to exceed 3,000 pounds (1,361 kg), whichever is greater. Because each landing would contain less than the current 5,000-pound (2,268 kg) limit for trawl-caught sablefish smaller than 22 inches (56 cm), that trip limit is removed and all sablefish could be smaller than 22 inches. This is intended to reduce the catch as the species harvest guideline is approached, but may slightly exceed the trawl allocation for sablefish. No change is made to the cumulative trip limits for the deepwater complex or thornyheads. The Council will discuss this issue again at its September 1993 meeting and may recommend further action.

Secretarial Action

The Secretary of Commerce (Secretary) concurs with the Regional Director's recommendation and announces the following change to the management measures for sablefish announced at 58 FR 2990 (January 7, 1993) and 58 FR 21949 (April 26, 1993): In any landing of the deepwater complex, the trip limit for trawl-caught sablefish is reduced to the greater of 1,000 pounds (454 kg), or 25 percent of the deepwater complex not to exceed 3,000 pounds (1,361 kg).

Classification

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until September 27, 1993.

This action is taken under the authority of 50 CFR 663.23(c), and section III.C.(1) of the Appendix to 50 CFR part 663.

This action is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Recordkeeping and reporting requirements.

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

Dated: September 3, 1993.

David S. Crestin,

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

[FR Doc. 93–22123 Filed 9–7–93; 2:58 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 174
Friday, September 10, 1993

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 Parts 1007, 1093, 1094, 1096, and 1108

[Docket Nos. AO–366–A36, et al.; DA–93–21]

Milk in the Georgia and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1007 ...	Georgia	AO–366–A36
1093 ...	Alabama-West Florida.	AO–386–A14
1094 ...	New Orleans-Mississippi.	AO–103–A56
1096 ...	Greater Louisiana	AO–257–A43
1108 ...	Central Arkansas .	AO–243–A46

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals that would: Merge several Federal milk orders in the southern United States; incorporate six now-unregulated Tennessee counties and the marketing areas of the recently terminated Nashville and Memphis, Tennessee, orders into the new merged order; provide "unit pooling" for the Alabama-West Florida order; and change the plant location adjustments for producers delivering milk to plants located in the Mobile, Alabama, area of the merged order.

DATES: The hearing will convene at 1 p.m., November 1, 1993.

ADDRESSES: The hearing will be held at the Holiday Inn—Perimeter Dunwoody, 4386 Chamblee-Dunwoody Road, Atlanta, Georgia 30341. (Telephone: 404/457–6363).

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, PO Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn—Perimeter Dunwoody, 4386 Chamblee-Dunwoody Road, Atlanta, GA, 30341 beginning at 1 p.m., on November 1, 1993, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Georgia; Alabama-West Florida; New Orleans-Mississippi; Greater Louisiana; and Central Arkansas marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) ("the Act"), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with these rules.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 4 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

Several of the proposals to be considered would combine the several existing marketing areas under one order, raising the issue of whether the provisions set forth in those proposals would tend to effectuate the declared policy of the Act if they are applied to the proposed merged marketing area, and, if not, what modifications of the provisions would be appropriate.

The issues raised by these proposals include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the marketing areas, or any combination of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders; and

(b) Adoption of any of the proposed provisions, or appropriate modifications thereof, for any separate order or any combination of such orders including a review of the appropriate pricing and pooling provisions of the orders whether separate or in any combination.

The proposed merger of orders also raises the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, and any administrative funds accumulated under the existing individual orders.

List of Subjects in 7 CFR Parts 1007, 1093, 1094, 1096, and 1108

Milk marketing orders.

The authority citation for 7 CFR parts 1007, 1093, 1094, 1096, and 1108 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc., Gulf Dairy Association, Inc., Southern Milk Sales, Inc., and Carolina Virginia Milk Producers Association, Inc.:

Proposal No. 1

Merge the marketing areas of the Georgia (part 1007), Alabama-West Florida (part 1093), New Orleans-Mississippi (part 1094), Greater Louisiana (part 1096), and recently terminated Nashville, Tennessee, milk orders with the unregulated Tennessee counties of Lincoln, Moore, Franklin, and Van Buren, to form a "Gulf States" marketing area (part 1007) with terms and provisions as follows:

§ 1007.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

§ 1007.2 Gulf States marketing area.

The *Gulf States marketing area*, hereinafter called the *marketing area*, means all territory within the bounds of the following Alabama, Florida, Georgia, Kentucky, Mississippi, and Tennessee counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1

Kentucky Counties

Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

Zone 2

Tennessee Counties

Cheatham, Clay, Davidson, Dickson, Fentress, Houston, Humphreys, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Smith, Stewart, Sumner, Trousdale, and Wilson.

Zone 3

Tennessee Counties

Bedford, Cannon, Coffee, De Kalb, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Rutherford, Warren, Wayne, White, Williamson, and Van Buren.

Zone 4

Alabama Counties

Cherokee, Colbert, De Kalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marshall, and Morgan.

Zone 5

Mississippi Counties

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo, and Union.

Zone 6

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Towns, Union, and White.

Zone 7

Mississippi Counties

Calhoun, Chickasaw, Clay, Coahoma, Grenada, Monroe, Quitman, Tallahatchie, and Yalobusha.

Zone 8

Alabama Counties

Bibb, Blount, Calhoun, Chambers, Chilton, Clay, Cleburne, Coosa, Cullman, Etowah, Fayette, Jefferson, Lamar, Marion, Pickens, Randolph, St. Clair, Shelby, Talledega, Tallapoosa, Tuscaloosa, Walker, and Winston.

Georgia Counties

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnett, Haralson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Zone 9

Mississippi Counties

Bolivar, Carroll, Choctaw, Leflore, Lowndes, Montgomery, Oktibbeha, Sunflower, and Webster.

Zone 10

Georgia Counties

Baldwin, Bibb, Beckley, Burke, Chattahoochee, Columbia, Crawford, Crisp, Dodge, Dooly, Emanuel, Glascock, Hancock, Harris, Houston, Jefferson, Jenkins, Johnson, Jones, Laurens, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Pulaski, Richmond, Schley, Stewart, Sumter, Talbot, Taylor, Treutlen, Twiggs, Upson, Warren, Washington, Webster, Wilcox, and Wilkinson.

Zone 11

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 12

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Sabine, Tensas, Union, Webster, West Carroll, and Winn.

Zone 13

Alabama Counties

Autauga, Barbour, Bullock, Butler, Choctaw, Clarke, Conecuh, Crenshaw, Dallas, Elmore, Greene, Hale, Lee, Lowndes, Macon, Marengo, Monroe, Montgomery, Perry, Pike, Russell, Sumter, Washington, and Wilcox.

Mississippi Counties

Adams, Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 14

Alabama County of Houston

Georgia Counties

Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bleckley, Bulloch, Brantley, Brooks, Bryan, Calhoun, Candler, Camden, Charlton, Chatham, Clay, Clinch, Coffee, Coulquitt, Cook, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Glynn, Grady, Irwin, Jeff Davis, Jenkins, Johnson, Lanier, Laurens, Lee, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Montgomery, Pierce, Pulaski, Quitman, Randolph, Seminole, Screven, Stewart, Sumter, Tattnall, Telfair, Terrell, Thomas, Tift, Toombs, Turner, Treutlen, Ware, Wayne, Webster, Wheeler, Wilcox, and Worth.

Zone 15

Mississippi Counties

Amite, Covington, Forrest, Franklin, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

Zone 16

Louisiana Parishes

Allen, Avoyelles, Beauregard, East Feliciana, Evangeline, Livingston, Rapides, Saint Helena, Vernon, and West Feliciana.

Zone 17

Alabama Counties

Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa, and Walton.

Louisiana Parishes

St. Tammany, Tangipahoa, and Washington.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River, and Stone.

Zone 18

Louisiana Parishes

Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson Davis, Lafayette, Pointe Coupee, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Vermilion, and West Baton Rouge.

Zone 19

Louisiana Parishes

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, and Terrebonne.

§ 1007.3 Route disposition.

Route disposition means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

§ 1007.4 Plant.

Plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products, including filled milk, are received, processed, or packaged. Separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1007.5 Distributing plant.

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1007.6 Supply plant.

Supply plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are transferred during the month to a pool distributing plant.

§ 1007.7 Pool plant.

Except as provided in paragraph (d) of this section, *pool plant* means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition, except filled milk, equal to 50 percent or more of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1007.13; and

(2) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1,500 pounds or 10 percent of the total quantity of fluid milk products, except filled milk, physically received or diverted therefrom pursuant to § 1007.13.

(b) A supply plant from which fluid milk products are transferred to pool distributing plants. Such transfers, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent in each of the months of July through November, and 40 percent in each of the months of December through June, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1007.13 but excluding milk diverted to such plant) and handlers described in § 1007.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant. Such deliveries, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent of the total producer milk of such cooperative association in each of the months of July through November, and 40 percent of such milk in each of the months of December through June. The plant's pool plant status shall be subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined pursuant to § 1007.8(e) (1) or (2);

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than such other marketing area but the plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this part, or such plant has automatic pooling status under such other order.

§ 1007.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) *Unregulated supply plant* means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or a governmental agency plant.

(e) *Exempt plant* means a plant:

(1) Operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part; or

(2) Which has monthly route disposition of 100,000 pounds or less during the month. Such plant will be exempt from the pricing and pooling provisions of this order. However, such handler must file periodic reports as prescribed by the market administrator to enable determination of the exempt status of such handler.

§ 1007.9 Handler.

Handler means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative with respect to producer milk which it causes to be diverted pursuant to § 1007.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1007.7(d);

(g) Any person who operates an unregulated supply plant; and

(h) Any person who operates an exempt plant.

§ 1007.10 Producer-handler.

Producer-handler means a person who is engaged in the production of milk and also operates a plant from which during the month fluid milk products, except filled milk, are disposed of only directly to consumers through home delivery retail routes or through a retail store located on the same property as the plant, and who has been so designated by the market administrator upon the market administrator's determination that all the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in such person's capacity as a handler) complete and exclusive control over the operation and management of a plant at which milk is processed and received from the milk production resources and facilities of such handler (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in that person's capacity as a dairy farmer).

(2) The producer-handler neither receives at such designated milk production resources and facilities nor receives, handles, processes, or distributes at or through any of such person's milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than:

(i) Such person's designated milk production resources and facilities;

(ii) Pool plants within the limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in, another producer's operation (in this or any Federal order).

(5) Designation of any person as a producer-handler following a cancellation of such person's prior designation shall be preceded by performance in accordance with paragraphs (a) (1), (2), (3), and (4) of this section for a period of one month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing, and distribution resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly, or partially owned, operated or controlled by any partner or stockholder of the producer-handler.

(2) As milk handling, processing and distribution resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly, or partially owned, operated, or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraphs (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraphs (a)(1) through (a)(4) of this section are not continuing to be met. Such cancellation is to apply to any month in which the requirements are not met, or the conditions for cancellation occurred.

(1) Milk from the designated production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler under this or any other Federal order.

(2) The producer-handler handles fluid milk products derived from sources other than designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which does not exceed the lessor of 5 percent of the producer-handler's Class I disposition during the month or 5,000 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location, and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled, and the effective dates of producer-handler status or loss of producer-handler status for each.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1007.32 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation do not exist.

§ 1007.11 [Reserved]

§ 1007.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such producer;

(2) Received by a handler described in § 1007.9(c); or

(3) Diverted from a pool plant in accordance with § 1007.13.

(b) *Producer* shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by such person whose milk is delivered to an exempt plant, excluding producer milk diverted to such exempt plant pursuant to § 1007.13;

(3) Any person with respect to milk produced by such person which is diverted to a pool plant from an other order plant if the other order plant designates such person under that order as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1007.44(a)(8)(iii) and the corresponding step of § 1007.44(b);

(4) Any person with respect to milk produced by such person which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by such person during the months of December through June that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preceding months of July through November more than one-fifth of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of grade A approval or the application of § 1007.13(e) (5), (6), and (7)), unless such pool plant was a nonpool plant during any of such immediately preceding months.

§ 1007.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1007.9(c); or

(c) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Diverted by the operator of a pool plant or cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of December through June, not less than four days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through November, not less than ten days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 33 percent during the months of July through November, or 50 percent during the months of December through June, of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during the month shall not exceed 33 percent during the months of July through November, or 50 percent during the months of December through June, of the producer milk physically received at such plant during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (c) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk;

(6) To the extent that it would result in nonpool status for the plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(7) The cooperative association shall designate the dairy farm deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk; and

(8) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1007.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1007.40(b)(1) from any source other than producers, a handler described in § 1007.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1007.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1007.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1007.40(b)(1)) for which the handler fails to establish a disposition.

§ 1007.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1007.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1007.17 Filled milk.

Filled milk means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so

that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1007.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;" and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of, or marketing, milk or milk products for its members.

§ 1007.19 Commercial food processing establishment.

Commercial food processing establishment means any facility, other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products, and has no disposition of fluid milk products or fluid cream products other than those that it received in consumer type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including, but not limited to, provisions in §§ 1007.13, 1007.41, and 1007.52.

§ 1007.20 Product prices.

The following prices shall be used in calculating the basic Class II formula price:

(a) *Butter price* means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following workday until the next price is reported. A workday is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price* means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following workday until the next price is reported. A workday is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price* means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding workday until the day such prices were previously reported. A workday is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price* means the simple average for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding workday until the day such price was previously reported. A workday is each Monday through Friday, except national holidays.

§ 1007.30 Reports of receipts and utilization.

On or before the 5th day after the end of the month (if postmarked), or not later than the 7th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in detail and on forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of its pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1007.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1007.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1007.9 (b) and (c) shall report:

(1) The quantities of skim milk and butterfat contained in receipts from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1007.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1007.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in detail prescribed by the market administrator, showing for each producer:

(1) Such producer's name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deduction, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1007.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1007.32 Other reports.

(a) Each handler described in § 1007.9 (a), (b), and (c) shall report to the market administrator on or before the 7th day after the end of each month of February through May the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of February through May the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1007.30 and 1007.31, each handler shall report such information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

§ 1007.40 Classes of utilization.

Except as provided in § 1007.42, all skim milk and butterfat required to be reported pursuant to § 1007.30 shall be classified as follows:

(a) *Class I milk* shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk* shall be all skim milk and butterfat:

(1) Disposed in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processing establishment if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream mixtures containing nonmilk items, yogurt, and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk* shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheese of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat, and butteroil;

(iii) Any milk product in dry form except nonfat dry milk;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1007.15 and the fluid cream product definition pursuant to § 1007.16; and

(7) In shrinkage assigned pursuant to § 1007.41(a) to the receipts specified in § 1007.41(a)(2) and in shrinkage specified in § 1007.41(b) and (c).

(d) *Class III–A milk* shall be all skim milk and butterfat used to produce nonfat dry milk.

§ 1007.41 Shrinkage.

For the purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1007.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1007.9(c), except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amount of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1007.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1007.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1007.44(a)(12) and the corresponding step of § 1007.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products.

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1007.44(a)(7) or the corresponding step of § 1007.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1007.44(a) (11) or (12) or the corresponding steps of § 1007.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section.

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1007.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in such handler's report of receipts and utilization filed pursuant § 1007.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plants from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plants from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be classified to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1007.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1007.9(c) to another handler's pool plant shall be classified pursuant to § 1007.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1007.43 General classification rules.

In determining the classification of producer milk pursuant to § 1007.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1007.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1007.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1007.40, 1007.41, and 1007.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1007.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1007.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association;

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignment under § 1007.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1007.44 on a pro rata basis, unless a specific use of such receipts is established by the handler; and

(e) Class III–A milk shall be allocated in combination with Class III milk and the quantity of producer milk eligible to be priced in Class III–A shall be determined by prorating receipts from pool sources to Class III–A use on the basis of the quantity of total receipts of bulk fluid milk products allocated to Class III use at the plant.

§ 1007.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1007.9(a) for each pool plant of the handler separately, the classification of producer milk and milk received from a handler described in § 1007.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1007.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1007.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1007.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1007.40(b)(1) that were not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under any Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is fully regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(A) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1007.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1007.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5), and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the

plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii) and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1007.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1007.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1007.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1007.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1007.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1007.44(a)(12) and the corresponding step of § 1007.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream

products from an other order plant, the class to which such receipts are allocated pursuant to §§ 1007.43(d) and 1007.44 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association that was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

§ 1007.50 Class prices.

Subject to the provisions of § 1007.52, the class prices for the month per hundredweight of milk containing 3.5% butterfat shall be as follows:

(a) The *Class I price* shall be the basic formula price for the second preceding month plus $3.08.

(b) The *Class II price* shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1007.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1007.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1007.51a.

(c) The *Class III price* shall be the basic formula price for the month, as adjusted by the following amounts:

Month	Amount
January	−$0.10
February	−0.10
March	−0.30
April	−0.30
May	−0.30
June	+0.10
July	+0.20
August	+0.25
September	+0.25
October	+0.25
November	+0.15
December	−0.10

(d) The *Class III–A price* for the month shall be the average Central States nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times an amount computed by subtracting from 9 an amount calculated by dividing 0.4 by such nonfat dry milk price, plus the butterfat differential value per hundredweight of 3.5 percent milk and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month.

§ 1007.51 Basic formula price.

The *basic formula price* shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential pursuant to § 1007.74 shall be used.

§ 1007.51a Basic Class II formula price.

The *basic Class II formula price* for the month shall be the basic formula price determined pursuant to § 1007.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1007.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and separately, for the first 15 days of the second preceding month, as follows:

(1) The gross value of milk used to produce cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to produce cheddar cheese and the gross value of milk used to produce butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk

determined pursuant to paragraph (c) of this section.

§ 1007.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1007.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1007.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1007.2, the adjustment (cents per hundredweight) shall be as follows:

Zone 1	Minus 69.
Zone 2	Minus 56.
Zone 3	Minus 47.5.
Zone 4	Minus 23.
Zone 5	Minus 18.
Zone 6	Minus 15.
Zone 7	Minus 3.
Zone 8	No adjustment.
Zone 9	Plus 2.
Zone 10	Plus 10.
Zone 11	Plus 12.
Zone 12	Plus 20.
Zone 13	Plus 27.
Zone 14	Plus 30.
Zone 15	Plus 37.
Zone 16	Plus 47.
Zone 17	Plus 57.
Zone 18	Plus 70.
Zone 19	Plus 77.

(2) For a plant located within the marketing area of another order issued pursuant to the Act, the location adjustment shall be computed in the following manner: Subtract the Class I price applicable in Zone 8 of this order from the Class I price applicable at such plant, had the plant been regulated under such order.

(3) For a plant located outside the areas described in paragraphs (a) (1) and (2) of this section, and north of a line extending through the northern borders of the States of Alabama, Georgia, and Mississippi the adjustment shall be minus 23 cents for plants located nearest the city hall of Florence or Huntsville, Alabama; minus 15 cents for plants located nearest the city hall of Rome or Blairsville, Georgia; minus 18 cents for plants located nearest the city hall of Corinth, Mississippi; or plus 20 cents for plants located nearest the city hall of Monroe or Shreveport, Louisiana. Such minus adjustment shall be increased (plus adjustments decreased) 2.5 cents for each 10 miles or fraction thereof (by the shortest hardsurfaced highway distance as determined by the market administrator) that such plant is from the nearer of the cities of Florence or Huntsville, Alabama; Rome or Blairsville, Georgia; Corinth, Mississippi; or Monroe or Shreveport, Louisiana.

(4) For a plant located outside the areas specified in paragraphs (a) (1) through (3) of this section the adjustment shall be the adjustment applicable at the nearer of the cities of Lavonia, Augusta, or Savannah, Georgia; or Lake Charles, Leesville, or Shreveport, Louisiana.

(b) For fluid milk products transferred in bulk form from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price at the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1007.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1007.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price applicable at the transferor-plant and the transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1007.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I in transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraphs (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III and Class III–A prices for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1007.50(b).

§ 1007.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

§ 1007.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1007.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1007.9(c) that were classified in each class pursuant to

§§ 1007.43(a) and 1007.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1007.44(14) and the corresponding step of § 1007.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1007.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1007.44(a)(9) and the corresponding step of § 1007.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1007.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7) (i) through (iv) and the corresponding step of § 1007.44(b), excluding receipts of a bulk fluid cream product from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants, and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7) (v) and (vi) and the corresponding step of § 1007.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1007.43(d) and § 1007.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(11) and the corresponding step of § 1007.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1007.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1007.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

§ 1007.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of June through January per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handlers who filed the reports prescribed in § 1007.30 for the month and who made payments pursuant to § 1007.71 for the preceding month;

(2) Add not less than one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus adjustments and subtract an amount equal to the total value of the plus adjustments computed pursuant to § 1007.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of June through January.

(b) For each month of February through May, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1007.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of the month the applicable uniform price(s) pursuant to § 1007.61 for such month.

§ 1007.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which the market administrator shall deposit all payments made by handlers pursuant to §§ 1007.71, 1007.76, and 1007.77, and out of which the market administrator shall make all payments pursuant to §§ 1007.72 and 1007.77. Payments due any handler shall be offset by any payments due from such handler.

§ 1007.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1007.60.

(2) The sum of:

(i) The value at the uniform price(s) as adjusted pursuant to § 1007.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1007.9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1007.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by the difference between the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1007.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1007.71(a)(2) exceeds the amount computed pursuant to § 1007.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1007.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the 26th day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 23rd day of the month at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer. If the producer had discontinued shipping milk to such handler before the 25th day of any month, or if the producer had no established base upon which to receive payments during the base paying months of February through May, the applicable rate for making payments to such producer shall be the Class III price for the preceding month; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1007.74 and 1007.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1007.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer.

(3) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the 15th day of such month, such handler may reduce payments pursuant to this paragraph to producers on a pro rata basis but not by more than the amount of the underpayment. Such payments shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) On or before the day prior to the dates specified in paragraph (a) (1) and (2) of this section, each handler shall make payment to the cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraph (a) (1) and (2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (b) of this section to such cooperative association on a pro rata basis, prorating such underpayment to the volume of milk received from such cooperative association in proportion to the total milk received from producers by the handler, but not by more than the amount of the underpayment. Such payments shall be completed in the following manner:

(1) If the handler receives full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on the 15th day of the month;

(2) If the handler has not received full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on or before the date for making such payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(d) Each handler pursuant to § 1007.9(a) who receives milk from a cooperative association as a handler pursuant to § 1007.9(c), including the milk of producers who are not members of such association, and who the market

administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 25th day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 14th day of the following month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1007.74 and 1007.75, and less any payments made pursuant to paragraph (d)(1) of this section.

(e) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (d) of this section to such cooperative association and complete such payments for milk received from such cooperative association in its capacity as a handler pursuant to § 1007.9(c), in the manner prescribed in paragraph (c) (1) and (2) of this section.

(f) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom such handler has received producer milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of February through May the total pounds of base milk received from such producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is (are) other than the applicable minimum rate(s);

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1007.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the butter price less 0.0028 times the average price per hundredweight, at test, for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month. The butter price means the simple average for the month of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following day until the next price is reported.

§ 1007.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in § 1007.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1007.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1007.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1007.30(b) and 1007.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1007.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated

distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be computed to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1007.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest price class of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1007.60 for such handler shall include, in lieu of the value of other source milk specified in § 1007.60(f) less the value of such other source milk specified in § 1007.71(a)(2)(ii), a value of milk determined pursuant to § 1007.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributed plant during the month equivalent to the requirements of § 1007.7(b), subject to the following conditions:

(A) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1007.30(b) and 1007.31(b) similar reports for each such nonpool supply plant;

(B) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(C) The value of milk determined pursuant to § 1007.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of the partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1007.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

§ 1007.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1007.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1007.71, 1007.76, 1007.77, 1007.78, 1007.85, and 1007.86 shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

§ 1007.85 Assessment for order administration.

As each handler's pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1007.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1007.9(c);

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1007.43(d) and other source milk allocated to Class I pursuant to § 1007.44(a) (7) and (11) and the corresponding steps of § 1007.44(b), except such other source milk that is excluded from the computations pursuant to § 1007.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1007.76(a)(2).

§ 1007.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1007.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of the month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

§ 1007.90 Base milk.

Base milk means the producer milk of a producer in each month of February through May that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1007.91 Excess milk.

Excess milk means the producer milk of a producer in each month of February through May in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1007.92 Computation of base for each producer

(a) Subject to § 1007.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of September through December by the number of days represented by such producer milk or 100, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Any producer who, during the immediately preceding months of September through December, delivered milk to a nonpool plant that became a pool plant after the beginning of such base-forming period shall be assigned a base calculated as if the plant were a pool plant during such entire base-forming period. A base thus assigned shall not be transferable.

§ 1007.93 Base rules.

(a) Except as provided in § 1007.92(b) and paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which such application is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. A base transfer to be effective on February 1 for the month of February must be received on or before February 15. Such application shall be on a form approved by the market administrator and signed by the baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or the legal representative of the estate of any deceased baseholder.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during February through May of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of the base to be applicable during February through May of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed upon division of base by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during the immediately preceding months of September through December may be increased to such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (e) (1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before February 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the control of such person, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

§ 1007.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the preceding months of September through December and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

Proposed by Arkansas Dairy Cooperative Association, Inc.:

Proposal No. 2

Include the Central Arkansas milk order in the proposed merger of milk orders in the southern United States.

Proposed by Dairy Fresh of Louisiana:

Proposal No. 3

Establish a Class I differential of $3.65 per hundredweight in the Louisiana parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson Davis, Lafayette, Pointe Coupee, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Washington, West Baton Rouge, and West Feliciana. Establish a Class I differential of $3.72 per hundredweight in the Louisiana parishes of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, and Terrebone.

Proposed by Barber Pure Milk Company and Dairy Fresh Corporation:

Proposal No. 4

Provide for "unit pooling" by including the following paragraph in the pool plant section of the proposed merged order:

"A unit consisting of one distributing plant and one or more additional plants of a handler at which Class I and/or Class II products only are processed and packaged shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the marketing area, and if, prior to the first of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the Market Administrator. Only one unit may be qualified by a handler pursuant to this section."

Proposal No. 5

Provide a Class I differential of $3.58 (i.e., a plus location adjustment of 50 cents relative to the proposed Class I differential of $3.08 in Proposal No. 1) and a producer location adjustment of plus 72 cents in the Alabama counties of Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, and Mobile, and the Florida counties of Escambia, Okaloosa, Santa Rosa, and Walton.

Proposal No. 6

Permit the operator of a pool plant that is not a cooperative association to divert any milk that is not under the control of a cooperative association that diverts milk during the month. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at all pool plants of the handler during the month.

Proposed by Georgia Milk Producers, Inc.:

Proposal No. 7

Provide for two advanced payments to producers, as specified in the following provision, in the Georgia order or in any merged order including the Georgia order:

§ 1007.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the 20th day of the month, to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer;

(2) On or before the 5th day of the following month, to each producer who had not discontinued shipping milk to such handler before the last day of the month, not less than 85 percent of the uniform price for the preceding month per hundredweight of milk received from the 16th through the last day of the month, less proper deductions authorized in writing by such producer; and

(3) On or before the 15th day of each month to each producer for milk received during the preceding month, not less than the uniform price per hundredweight, adjusted pursuant to §§ 1007.74, 1007.75, and 1007.86, subject to the following:

(i) Minus payments made pursuant to paragraphs (a) (1) and (2) of this section;

(ii) Less proper deductions authorized in writing by such producer; and

(iii) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.72 for such month, the handler may reduce pro rata its payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by the handler because of any improper claim on the part of the association, such handler, on or before the second day prior to the date on which payments are due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his/her discretion, through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to the market administrator's determination.

Proposal No. 8

Establish a fund under the merged order to protect dairymen from losses resulting from handler bankruptcies. The fund would be established through assessment of fully regulated handlers under the order. Once the fund has reached a predetermined amount, assessments would be halted until such time that additional funds are needed.

Proposed by Malone & Hyde:

Proposal No. 9

Adopt the following provisions for §§ 1007.2, 1007.7 (b) and (c), 1007.50(a), and 1007.52(a), of a merged Federal milk marketing order for the southeastern United States:

§ 1007.2 Southeast marketing area.

The *Southeast Marketing Area*, hereinafter called the *marketing area*, means all territory within the boundaries of the following: Alabama, Florida, Georgia, Mississippi, Tennessee, and Arkansas counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1

Tennessee Counties

Cheatham, Clay, Davidson, Dickson, Fentress, Houston, Humphreys, Jackson, Macon, Montgomery, Overton, Pickett, Puntam, Robertson, Smith, Stewart, Sumner, Trousdale, and Wilson.

Zone 2

Tennessee Counties

Bedford, Cannon, Coffee, DeKalb, Hickman, Lewis, Marshall, Maury, Perry, Rutherford, Van Buren, Warren, White, and Williamson

Zone 3

Arkansas County of Crittenden.

Tennessee Counties

Bledsloe, Fayette, Franklin, Giles, Grundy, Hardeman, Hardin, Lawrence, Lincoln, McNairy, Moore, Shelby, and Tipton.

Alabama Counties

Cherokee, Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston.

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Rabun, Towns, Union, and White.

Mississippi Counties

Alcorn, Benton, De Soto, Itawamba, LaFayette, Lee, Marshall, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunica, and Union.

Zone 5

Alabama Counties

Blount, Calhoun, Clay, Cleyburne, Etowah, Fayette, Jefferson, Lamar, Randolph, St. Clair, Shelby, Talledega, and Walker.

Georgia Counties

Banks, Barrow, Butts, Carrol, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinett, Haralson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Olgethorpe, Paulding, Pike, Polk, Putman, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Mississippi Counties

Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Grenada, Leflore, Lowndes, Monroe, Montgomery, Oktibbeha, Quitman, Sunflower, Tallahatchie, Webster, and Yalobusha.

Zone 6

Alabama Counties

Autauga, Bibb, Chambers, Chilton, Coosa, Elmore, Greene, Hale, Lee, Macon, Perry, Pickens, Russell, Tallapoosa, and Tuscaloosa.

Georgia Counties

Baldwin, Bibb, Burke, Chattahoochee, Columbia, Crawford, Glascock, Hancock, Harris, Houston, Jefferson, Jones, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Richmond, Schley, Talbot, Twiggs, Upson, Warren, Washington, and Wilkinson.

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 7

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Qauchita, Red River, Richland, Texas, Union, Webster, West Carroll, and Winn.

Zone 8

Alabama Counties

Barbour, Bullock, Choctaw, Dallas, Lowndes, Marengo, Montgomery, Pike, Sumter, and Wilcox.

Georgia Counties

Ben Hill, Bleckley, Bulloch, Candler, Clay, Crisp, Dodge, Dooly, Effingham, Emanuel, Evans, Jeff Davis, Jenkins, Johnson, Laurens, Lee, Montgomery, Pulaski, Quitman, Randolph, Screven, Stewart, Sumter, Tattnall, Telfair, Terrell, Toombs, Treutlen, Turner, Webster, Wheeler, and Wilcox.

Mississippi Counties

Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 9

Alabama Counties

Coffee, Dale, Geneva, Henry, and Houston.

Georgia Counties

Appling, Atkison, Bacon, Baker, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatman, Clinch, Coffee, Colquitt, Cook, Decatur, Dougherty, Early, Echols, Gynn, Grady, Irwin, Lanier, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Seminole, Thomas, Tift, Ware, Wayne, and Worth.

Zone 10

Alabama Counties

Butler, Clarke, Conecuh, Covington, Crenshaw, Monroe, and Washington.

Louisiana Parishes

Avoyelles, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides, Sabine, and Vernon.

Mississippi Counties

Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

Zone 11

Alabama Counties

Baldwin, Escambia, and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa, and Walton.

Louisiana Parishes

Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Helena, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River, and Stone.

Zone 12

Louisiana Parishes

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, and Terrebonne.

§ 1007.7 Pool plant.

* * * * *

(b) A supply plant from which fluid milk products are transferred or diverted to pool distributing plants. Such transfers or diversions, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent in each of the months of July through November, and 40 percent in each of the months of December through June, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1007.13 but excluding milk diverted to such plant) and handlers described in § 1007.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant. Such deliveries, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent of the total producer milk of such cooperative association in each of the months of July through November, and 40 percent of such milk in each of the months of December through June. The plant's pool plant status shall be subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant;

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk;

(3) The plant is located in the marketing area; and

(4) Not less than 20 percent of producer milk received at the plant during the months of July through November, and 10 percent of producer milk received at the plant during the months of December through June, is transferred to pool distributing plants.

* * * * *

§ 1007.50 Class prices.

Subject to the provisions of § 1007.52, the class prices for the month per hundredweight of milk containing 3.5% butterfat shall be as follows:

(a) The *Class I price* shall be the basic formula price for the second preceding month plus $3.08.

* * * * *

§ 1007.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1007.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1007.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1007.2, the adjustment shall be as follows:

Zone	Adjustment per hundredweight
Zone 1	Minus 56 cents.
Zone 2	Minus 53 cents.
Zone 3	Minus 31 cents.
Zone 4	Minus 23 cents.
Zone 5	No Adjustment.
Zone 6	Plus 10 cents.
Zone 7	Plus 20 cents.
Zone 8	Plus 27 cents.
Zone 9	Plus 30 cents.
Zone 10	Plus 37 cents.
Zone 11	Plus 57 cents.
Zone 12	Plus 64 cents.

(2) For a plant located within the marketing area of another order issued pursuant to the Act, the location adjustment shall be computed by subtracting the Class I price applicable in Zone 5 of this order from the Class I price applicable at such plant under the order in which the plant is located.

(3) For a plant located in the Kentucky counties of Allen, Barren, Hart, Metcalfe, Monroe, Simpson, and Warren, subtract 69 cents.

(4) For a plant located outside the areas described in paragraphs (a) (1), (2), and (3) of this section, and north of a line extending through the northern borders of the States of Alabama, Georgia, and Mississippi, the adjustment shall be minus 56 cents for plants nearest the city hall of Nashville, Tennessee; minus 20 cents for plants nearest the city hall of Florence, Alabama; Rome or Blairsville, Georgia; Clarksdale or Corinth, Mississippi; minus 35 cents for plants located nearest the city hall of Shreveport, Louisiana, or minus 31 cents for plants located nearest the city hall of Memphis or Chattanooga, Tennessee. Such minus adjustment shall be increased 2.25 cents for each 10 miles or fraction thereof (by the shortest hardsurfaced highway distance as determined by the market administrator) that such plant is from the nearer of the aforementioned cities.

(5) For a plant located outside the areas specified in paragraphs (a) (1) through (3) of this section, the adjustment shall be the adjustment applicable at the nearer of the cities of Lavonia, Augusta, or Savannah, Georgia; Lake Charles, Leesville, or Shreveport, Louisiana; or Greenville, Mississippi.

* * * * *

Proposal No. 10

If a base-excess seasonal production incentive plan is adopted for the merged order, provide in §§ 1007.90 through 1007.94 for computation of base for each producer by reference to producer milk delivered by such producer during the months of July through November, and for payment on base milk and excess milk during the months of January through May.

Proposed by Mid-America Dairymen, Inc., and Southern Milk Sales, Inc.:

Proposal No. 11

Amend § 1096.7 of the Greater Louisiana Milk Marketing Order or, if Proposal No. 1 is adopted, § 1007.7 of the proposed Gulf States Milk Marketing Order, by replacing the period at the end of paragraph (a)(2) with "; or" and adding a new paragraph to read as follows:

§ 1096.7 Pool plant.

* * * * *

(a) * * *

(3) Located in the marketing area that qualifies pursuant to paragraph (a) (1) and (2) of this section so long as this order's Class I price applicable at such plant location is not less than an other order's Class I price applicable at the same location even though the plant may meet the pooling requirements of the other Federal order and have greater route disposition in the other marketing area than in the Greater Louisiana—or "Gulf States"—marketing area.

Proposed by Dairy Division, Agricultural Marketing Service:

Proposal No. 12

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250 or from the following market administrators: Paul W. Halnon, USDA–AMS–Dairy Division, P.O. Box 49025, Atlanta, GA 30359; or Richard E. Arnold, USDA–AMS–Dairy Division, P.O. Box 701440, Tulsa, OK 74170–1440.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office)
Offices of the Market Administrators for each of the markets included in this notice.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: September 3, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–22116 Filed 9–9–93; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Part 313

[Docket No. 91–035P]

RIN 0583–AB54

Use of Carbon Dioxide in the Humane Slaughter of Swine

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: FSIS is proposing to amend the Federal meat inspection regulations to permit the use of carbon dioxide to induce death in swine. Current regulations governing the humane slaughter of swine permit carbon dioxide to be used to render the animals unconscious, with death resulting from the bleeding operation. The proposed amendment, prompted by a petition from the Danish and Swedish Meat

Research Institute, is based on scientific research that shows the use of carbon dioxide to induce death in swine to be an effective and humane slaughtering method.

DATES: Comments must be received on or before November 8, 1993.

ADDRESSES: Written comments may be mailed to: Policy Office, Attn: Linda Carey, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that the proposed rule is not a major rule under Executive Order 12291. It would not 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 United States-based enterprises to compete with foreign-based enterprises in export or domestic markets.

Executive Order 12778

This proposed rule has been reviewed pursuant to Executive Order 12778, Civil Justice Reform. This proposed rule would permit swine to be humanely slaughtered in official meat-packing establishments through the administration of carbon dioxide.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) from imposing any requirements with respect to federally inspected premises and facilities, and operations of such establishments, that are in addition to, or different than, those imposed under the FMIA. States and local jurisdictions are also preempted under the FMIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the FMIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat products that are outside official establishments for the purpose of preventing the distribution of meat products that are misbranded or adulterated under the FMIA or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. States and local jurisdictions may also make requirements or take other actions that are consistent with the FMIA, with respect to any other matters regulated under the FMIA.

Under the FMIA, States that maintain meat inspection programs must impose requirements on State-inspected products and establishments that are at least equal to those required under the FMIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

In the event of its adoption, no retroactive effect would be given to this proposed rule, and applicable administrative procedures must be exhausted before any judicial challenge can be taken to the application of these provisions. Those administrative procedures are set forth in 9 CFR 306.5.

Effect on Small Entities

The Administrator has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

The use of the carbon dioxide (CO_2) slaughtering methods is voluntary. FSIS is not aware of any domestic establishments that are currently planning to use the proposed swine slaughtering method. Even if some establishments did decide to use the method after adoption of the proposed rule, there is no indication that a substantial number of establishments would. There would be no impact on entities other than establishments engaged in the slaughter of swine and the sale of swine carcasses and parts for human food. A significant investment would be required by large or small entities establishing CO_2 slaughtering facilities. Inspection program experts estimate that an investment of $50,000 to $100,000 per slaughtering line would be necessary, depending on the size and complexity of the establishment. The decision to make this initial investment would be entirely up to the establishment, although this proposed rule authorizing CO_2 slaughtering of swine would be a factor in making the decision. This investment could be more than offset by a reduction in manpower required for restraining, stunning, and handling hogs after stunning.

Further, the improvement in meat quality, which advocates of the CO_2 process claim, could lead to a greater amount of saleable product. Because the hogs are much more relaxed when slaughtered with CO_2 than they are when slaughtered by current methods, a number of desirable characteristics are imparted to the meat. The amount of pale, soft, exudative pork, considered undesirable by meat buyers, is reduced under the process, as well as blood spattering and broken bones. Also, less effort is expended on trimming and the removal of quality defects.

No adverse competitive effects on small entities resulting from adoption of the proposed rule are anticipated. Because the equipment needed for establishments to benefit from CO_2 slaughtering is available in a range of prices, larger establishments choosing to use this method would not receive greater proportional advantages than smaller ones choosing to do the same. For the reasons discussed above, the proposed rule would not have a significant impact on a substantial number of small entities.

Paperwork Requirements

This proposed rule imposes no new information collection requirements on official establishments or other members of the public. However, under the existing rules for the use of carbon dioxide to anaesthetize animals before slaughter, establishments are required to sample gas for analysis from representative locations within the gas tunnels through which the animals are conveyed. Gas concentrations and exposure times are to be recorded throughout each day's operations. The records are subject to FSIS's standard records retention requirement at 9 CFR 320.3 and must be available to employees of the inspection service. These requirements would be continued under the proposal.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments should be sent to the Policy Office at the address shown above and should refer to the docket number located in the heading of this document. All comments submitted in response to this proposal will be available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

Under the Humane Slaughter Act (HSA) of 1958 (7 U.S.C. 1901–1906), as amended, the Secretary of Agriculture is authorized to designate humane methods of handling and slaughter of food animals. The HSA (section 2(a)) sets forth a number of methods of handling and slaughtering that have been found to be humane, including the anaesthetization of animals by electrical or chemical means (such as the

administration of carbon dioxide gas) before they are shackled, hoisted, thrown, cast, or cut. These methods are available to slaughtering establishments under the FMIA (section 3; 21 U.S.C. 603).

Section 313.5 of the Federal meat inspection regulations (at 9 CFR 313.5) provides for the administration of CO_2 gas to sheep, calves, and swine for the purpose of inducing surgical anaesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The regulations require that the animals be exposed to the CO_2 in a way that will accomplish the anaesthesia quickly, with a minimum of excitement or discomfort to the animals. Although the regulations allow stunning by CO_2, they explicitly prohibit asphyxia or death in the animals before sticking and bleeding.

FSIS has traditionally required animals to be rendered insensible to pain by some method of stunning before they are slaughtered. Death has been expected to be caused by asphyxiation due to bleeding and not to be directly caused by the stunning method.

Stunning of swine has traditionally been required to be reversible; that is, it must be possible for stunned animals to be brought back into consciousness. This requirement was based on the belief of veterinarians and other experts that if the stunned animals were still alive when they were bled, the bleeding would be assisted by the still-beating heart and would be thorough. Thus, animals could be rendered unconscious by an authorized method but not killed. Death would occur only upon the bleeding of the stunned animals.

Since at least the 1970's, however, studies have shown that the bleeding out of a carcass can be just as thorough regardless of the degree of stunning if the carcass is correctly positioned for bleed-out. The length of time for bleeding may vary but the results are still the same.

After it had been demonstrated that electrocution, irreversible electrical stunning, was an efficient and humane method of slaughtering animals and had no adverse effect on meat or meat products, FSIS published regulations permitting this slaughtering method (50 FR 25202). FSIS is proposing a similar measure with respect to CO_2 use.

The use of CO_2 gas for stunning has been permitted since the early 1900's and is explicitly permitted by the HSA. Animals to be anaesthetized by this method are placed on a conveyor and passed through tunnels filled with the gas. They are moved through the tunnels at such a slow rate that they are unconscious when they emerge. They are then shackled, hoisted, stuck, and bled out.

In the last two decades, reports in the scientific literature have shown that the stunning of slaughter animals by the administration of CO_2 gas is just as effective as electrical stunning. There is little or no difference between the two methods in the amount of stress inflicted on the animal. Whichever method is used, animals should be carefully handled before slaughter to reduce stress, and sticking (exsanguination) should take place as soon as possible after stunning to prevent a return to consciousness.

With respect to the administration of CO_2, it has been demonstrated that if the concentration of the gas in the tunnels is increased, death ensures. Other effects, including fewer injuries to the animals or establishment employees, have also been noted. Depending on the facilities and equipment used and the technique of administration, CO_2 stunning of swine can yield meat that has improved color, carcasses with fewer broken bones and blood spots in the most desired cuts, less pale, soft, exudative pork, and higher boning and cutting yields.

Studies have shown that the necessary conditions for irreversible stunning to take place are a 95–98 percent CO_2 concentration and an exposure time of 3.5 minutes. The stunning-to-bleeding interval should be no longer than 2 minutes to prevent pooling of blood in intestines and edible organs and no longer than 5 minutes to prevent the pooling of blood in muscle tissue.[1]

FSIS has been petitioned by the Danish and Swedish Meat Research Institute to amend the Federal meat inspection regulations to permit the use of CO_2 for the purpose of inducing death in swine. The petitioners have based their request on studies demonstrating the beneficial effects of this method on meat quality and the efficient handling of slaughter swine. Some Danish firms that export product to the United States are planning to install systems for slaughtering swine with CO_2, and FSIS believes it may be potentially beneficial to U.S. industry to make the option of this use of CO_2 available.

Under the FMIA, only those foreign establishments that have complied with inspection standards "at least equal to" those enforced domestically by the United States Government may export product to this country. An establishment in which slaughter methods are used that are prohibited by regulations under the FMIA is not eligible to export product to the United States. An establishment using CO_2 to induce death in swine would not be able to export pork products to the United States without a change in Federal regulations.

The proposed amendment of the regulations is consistent with the main purpose of the HSA, which is to render animals insensible to pain before slaughter. Section 313.5 of the Federal meat inspection regulations would be amended to remove the prohibition against the use of CO_2 as a direct cause of asphyxiation or death in swine and provide for monitoring of the conditions under which slaughter by use of CO_2 gas is administered. The proposed change would not require swine to be asphyxiated by CO_2 before bleeding, but would permit exposure to concentrations of the gas for a sufficient amount of time for death to occur. A revision to the current requirement for a suitable exhaust system (proposed 9 CFR 313.5(b)(3)) would state more accurately than does the current wording the purpose of the exhaust system, which is intended, in case of equipment breakdown, to prevent both nonuniform carbon dioxide concentrations in the gas tunnel and leakage of carbon dioxide gas into the ambient air of the establishment.

The degree of CO_2 exposure beyond that necessary for effective stunning would be determined by the establishment. However, if the animal were not asphyxiated by CO_2, then it would have to be stuck as soon as possible to prevent it from regaining consciousness.

FSIS does not find it necessary to establish a limit for the death-to-bleeding time interval for an animal asphyxiated by CO_2. If the delay between death and bleeding is too long, the deleterious effect on the meat would entail condemnation upon post mortem inspection.

List of Subjects in 9 CFR Part 313

Meat inspection, Humane slaughter of livestock.

For the reasons set out in the preamble, it is proposed that 9 CFR part 313 of the Federal meat inspection regulations be amended as follows:

PART 313—HUMANE SLAUGHTER OF LIVESTOCK

1. The authority citation for part 313 would continue to read as follows:

[1] Copies of articles on the stunning of slaughter animals and on irreversible stunning with CO_2 may be viewed in the Office of the Hearing Clerk, room 3171, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250.

Authority: 7 U.S.C. 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Paragraph (a)(1) of § 313.5 would be amended by the addition of a new last sentence; paragraphs (a)(3), (b)(1)(i), and (b)(1)(ii) would be revised; and the last sentence of paragraph (b)(3) would be revised to read as follows:

§ 313.5 Chemical; carbon dioxide.

* * * * *

(a) * * *

(1) * * *

In swine, carbon dioxide may be administered to induce death in the animals before they are shackled, hoisted, thrown, cast, or cut.

* * * * *

(3) On emerging from the carbon dioxide tunnel, the animals shall be in a state of surgical anesthesia and shall remain in this condition throughout shackling, sticking, and bleeding, except for swine in which death has been induced by the administration of carbon dioxide. Asphyxia or death from any cause shall not be produced in animals before bleeding, except for swine in which death has been induced by the administration of carbon dioxide.

(b) * * *

(1) * * *

(i) The carbon dioxide gas shall be administered in a tunnel which is designed to permit the effective exposure of the animal. Two types of tunnels, based on the same principle, are in common use for carbon dioxide anesthesia. They are the "U" type tunnel and the "Straight Line" type tunnel, and are based on the principle that carbon dioxide gas has a higher specific gravity than air. The tunnels are open at both ends for entry and exit of animals and have a depressed central section. Anesthetizing, or, in the case of swine, death-inducing, carbon dioxide concentrations are maintained in the central sections of the tunnels. Effective anesthetization is produced in these central sections. Animals are driven from holding pens through pathways constructed of large-diameter pipe or smooth metal and onto continuous conveyor devices that move the animals through the tunnels. The animals are either compartmentalized on the conveyors by mechanical impellers synchronized with the conveyor or they are otherwise prevented from crowding. While impellers are used to compartmentalize the animals, mechanically or manually operated gates are used to move the animals onto the conveyors. Surgically anesthetized animals, or killed swine, are moved out of the tunnels by the same continuous conveyors that moved them into and through the carbon dioxide gas.

* * * * *

(3) * * * An exhaust system must be provided so that, in case of equipment failure, non-uniform carbon dioxide concentrations in the gas tunnel or contamination of the ambient air of the establishment will be prevented.

September 2, 1993.

Done at Washington, DC.

Eugene Branstool,

Assistant Secretary.

[FR Doc. 93–22118 Filed 9–9–93; 8:45 am]

BILLING CODE 3410–DM–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–21]

Keith J. Schiager, Ph.D., et al., Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by Keith J. Schiager, Ph.D., *et al.* The petition has been docketed by the Commission and has been assigned Docket No. PRM–20–21. The petitioners request that the NRC amend its regulations governing the disposal of certain low-level radioactive wastes to provide additional options for the disposal of very low concentrations of short-lived radionuclides. The petitioners believe such an amendment would permit more cost-effective radioactive waste management by research institutions and would not adversely affect public health and safety.

DATES: Submit comments by November 24, 1993. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–492–7758 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission (NRC) received a petition for rulemaking submitted by Keith J. Schiager, Ph.D., *et al.*, dated May 18, 1993. The petition was docketed as PRM–20–21 on July 6, 1993. The petitioners requested that the NRC amend its regulations in 10 CFR part 20 that will become mandatory for all licensees on January 1, 1994, to permit additional methods for disposal of certain low-level radioactive wastes. The petitioners note that current NRC regulations on low-level radioactive waste disposal (10 CFR 20.306) permit the disposal of liquid scintillation fluid that contains no more than 0.05 microcurie of hydrogen-3 (H–3) or carbon-14 (C–14) per gram.

The petitioners believe this provision is appropriate because it allows disposal of flammable solvents by incineration but claim that procedures other than liquid scintillation counting generate similar flammable or combustible liquid wastes that contain low concentrations of H–3 and C–14. On May 21, 1991 (56 FR 23360, 23391), the NRC published a final rule that added revised standards for protection against radiation to the regulations in 10 CFR part 20. Although the final rule became effective June 20, 1991, licensees are not required to implement the provisions of the final rule until January 1, 1994. The petitioners contend that the regulations that become mandatory for all licensees on January 1, 1994, are too restrictive and prevent many research institutions from pursuing certain types of research that cannot be conducted effectively without the use of radioactive materials.

On January 30, 1984 (49 FR 3667), the NRC published a petition for rulemaking submitted by Keith J. Schiager, Ph.D., on behalf of the University of Utah (PRM–20–14). The petitioner requested that NRC amend its regulations in 10 CFR part 20 to provide for additional options for the disposal of very low concentrations of short-lived radionuclides.

In a letter dated June 1, 1993, Dr. Schiager requested, on behalf of the University of Utah, that this petition be withdrawn because of changes in

legislation and operational requirements since the date his original petition was published in January 1984. Dr. Schiager also indicated that a revised petition for rulemaking, which will propose amendments to provisions for disposal of wastes containing low-level radionuclides in 10 CFR part 20 that become mandatory for all licensees on January 1, 1994, would be filed in the near future. On July 22, 1993 (58 FR 39173), the NRC published a notice of withdrawal of the University of Utah's petition for rulemaking.

The NRC is soliciting public comment on the petition submitted by Keith J. Schiager, Ph.D., *et al.*, that requests the changes as discussed below to the regulations in 10 CFR part 20 that will become mandatory for all licensees on January 1, 1994.

The Petitioners

The petitioners are a group of individuals responsible for radioactive waste management at various educational and medical institutions with extensive biomedical research activities. The petitioners indicate they are submitting this petition for rulemaking only as individual citizens, not as authorized representatives of the institutions that possess NRC licenses at which they are currently employed.

Adverse Effects on the Petitioners

The petitioners have submitted this petition for rulemaking because they believe they have been adversely affected by the current regulations that restrict low-level radioactive waste disposal. The petitioners' primary concern is that these restrictions will prevent them from pursuing certain types of research which they believe cannot be effectively performed without the use of radioactive materials.

The petitioners state that while the current regulations are appropriate in permitting disposal of liquid scintillation fluid that contains no more than 0.05 microcurie of H–3 or C–14 as if it were not radioactive, they indicate that other procedures also generate similar combustible liquid wastes. The petitioners believe that these materials could be included under the disposal criteria for specific wastes that contain very low levels of radionuclides. The petitioners also assert that proposed disposal criteria would result in a cost-effective option that would not adversely affect public health or environmental quality.

The petitioners state that under the current industry practice, wastes containing low-level radionuclides are usually stored for 10 half-lives, then are monitored for levels of radioactivity. If no residual radioactivity is discovered, the material can be treated as nonradioactive for disposal purposes. The petitioners state that wastes stored for the prescribed timeframe will lose 99.9 percent of their radioactive content.

The petitioners note that under the current regulations most NRC licensees are permitted to use this disposal method for materials that have half-lives of less than 65 days, but also assert that this disposal practice is appropriate for materials with half-lives of up to 1 year. The petitioners also believe that an arbitrary number of half-lives is not equally protective in all situations. As an example, the petitioners state that waste material containing one millicurie of radioactivity would decay to one microcurie in 10 half-lives, while waste containing one curie of radioactivity will still contain one millicurie after the same storage time.

The petitioners believe that, regardless of the initial radioactivity present in waste material, there is no significant risk that materials with a half-life of 1 year or less would leach from a landfill before they decay. The petitioners state that the intent of the required storage time of low-level radioactive waste material before disposal is to make certain that all radioactivity has decayed to harmless levels. The petitioners assert that radioactive decay associated with buried wastes containing low levels of radionuclides will have no more adverse effect on public health and the environment than if the wastes are stored in a licensee-controlled facility.

The petitioners also assert that the current regulatory limits on radioactivity in buried waste materials are intended to protect not only individuals who transport and handle the waste, but also to protect the general public if a transportation accident enroute to the burial site results in a release. The petitioners believe that a regulatory limit on the exposure rate from the waste container or the transport vehicle would accomplish the same result.

The petitioners recommend that the identical requirement currently in place for specific licenses, which requires that the deep-dose equivalent exposure rate be indistinguishable from background levels as measured by low-level laboratory survey instruments, would also be adequate to protect public health and the environment from adverse radiological effects from buried low-level biological wastes. The petitioners believe that such a provision would allow for immediate disposal of wastes containing low levels of radionuclides and would permit more cost-effective waste disposal practices for biological research activities.

The Petitioners' Proposals

The petitioners request that 10 CFR part 20 be amended to overcome the problems the petitioners have itemized and recommend the following revision to the regulations:

The petitioners propose that § 20.2005 be amended by revising paragraph (a); redesignating paragraph (c) as paragraph (g); and adding new paragraphs (c), (d), (e), and (f) to read as follows:

Proposed Revision

§ 20.2005 Disposal of specific wastes.

(a) A licensee may dispose of the following licensed material as if it were not radioactive:

(1) 0.05 microcurie (1.85 kBq), or less, of hydrogen-3 or carbon-14 per gram of flammable or combustible liquid; and

(2) 0.05 microcurie (1.85 kBq), or less, of hydrogen-3 or carbon-14 per gram of biological tissue, animal bedding material or animal excreta, averaged over the weight of the entire tissue, bedding material or excreta.

* * * * *

(c) Any licensee may dispose of 0.05 microcurie (1.85 kBq), or less, of licensed material consisting of any mixture of hydrogen-3, carbon-14, and radionuclides with half-lives of less than 1 year, per gram of incinerator ash or nonsalvable trash, averaged over the weight of the ash or trash generated directly in the utilization of the radionuclides present, by burial in a landfill approved by the U.S. Environmental Protection Agency or appropriate State regulatory agency.

(d) The deep-dose equivalent dose rate at the surface of containers and vehicles used for transporting wastes disposed of under the provisions of paragraph (c) of this section shall be indistinguishable from background with typical low-level laboratory survey instruments.

(e) All "radioactive materials" labels shall be removed or obliterated prior to disposal under the provisions of paragraph (c) of this section, and the containers and the transport vehicles of these waste materials shall not be labeled as containing radioactive materials unless so required by the U.S. Department of Transportation.

(f) Wastes disposed of under the provisions of paragraph (c) of this section are not subject to the requirements of § 20.2006.

* * * * *

The petitioners admit that proposed § 20.2005(c) and (e) would result in a potential conflict between NRC

requirements and U.S. Department of Transportation (DOT) regulations that specify that any material with a specific gravity greater than 0.002 microcurie per gram must be treated as radioactive. The petitioners indicate that if the petition for rulemaking before the NRC results in favorable action, they will submit a petition for rulemaking to DOT to revise the relevant regulation (49 CFR 173.403(y)) to permit an identical method for disposal of waste material that contains low levels of radionuclides.

The petitioners also recognize that the types of waste specified in proposed § 20.2005(c) are incinerator ash and nonsalvable trash, and that the incineration process is covered in § 20.2004. The petitioners emphasize that the regulatory intent is to exclude discarded laboratory apparatus, equipment, or furniture that could result in unintended or unauthorized retrieval of contaminated items.

The Petitioners' Conclusion

The petitioners have concluded that the current restrictions on low-level radioactive waste disposal have hindered certain types of research that they believe cannot be effectively performed without the use of radioactive materials. The petitioners have proposed revisions and additions to the current regulations in 10 CFR part 20 that they believe will permit more cost-effective disposal of wastes containing very low levels of radionuclides without adversely affecting public health or the environment. The petitioners request that the NRC consider its proposals to amend the rules in 10 CFR part 20.

Dated at Rockville, Maryland, this 3rd day of September, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–22136 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–93–16]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received by November 9, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on September 3, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No.: 26500

Petitioner: Air Line Pilots Association

Regulations Affected:

14 CFR 121 appendix I, Section V, Paragraph C

Description of Rulechange Sought:

To eliminate random drug testing for flight crew members.

Petitioner's Reason for the Request:

Denial, August 23, 1993

[FR Doc. 93–22156 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 93–CE–42–AD]

Airworthiness Directives: Beech Aircraft Corporation Models B300 and B300C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Models B300 and B300C airplanes that do not have all cabin seats modified through the incorporation of Beech Kit No. 303–307. The proposed action would require inspecting the cabin seat frames for cracks, repairing any cracks, and modifying the cabin seat frames by installing Beech Kit No. 303–307. Inspection of affected in-service airplanes reveals cracking of these cabin seats around the welded-in bushings. The bearing shafts, which retain the seat frame and belted occupant, are bolted to the frame through these bushings. The actions specified by the proposed AD are intended to prevent separation of the seat from its base caused by cracks around the welded-in bushings.

DATES: Comments must be received on or before November 12, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–42–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085, or Tosington Enterprises Inc., 2261 Madera Road, Simi Valley California. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4128; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–42–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–42–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Inspection of several Beech Models B300 and B300C airplanes that do not have all cabin seats modified through the incorporation of Beech Kit No. 303–307 reveals that cracks are propagating around the welded-in bushings in the cabin chairs. The bearing shafts, which retain the seat frame and belted occupant, are bolted to the frame through these welded-in bushings. These cracks are developing because of insufficient penetration of metal at the weld surface. Bolting the rods to the frame without properly shimming to reduce the gap could cause the weakened welds to crack. A cracked cabin seat at the welded-in bushing, if not detected and corrected, could result in separation of the seat from its base.

Beech has issued Service Bulletin No. 2443, dated July 1993, which specifies procedures for the following on airplanes that have seats manufactured by the Gordon-Piatt Energy Group: (1) Inspecting each forward or aft facing single occupant cabin seat for the existence of Beech Kit No. 303–307; (2) inspecting those seats without the kit for cracks, and repairing any cracks found; and (3) modifying those seats by installing Beech Kit No. 303–307.

In addition, some of the affected airplanes have seats installed that are manufactured by Tosington Enterprises, Inc. (Tosington). Tosington has issued SB No. 001, dated July 1993, which specifies the same procedures as Beech SB No. 2443, except it provides procedures for accomplishing the actions on the Tosington seats.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent separation of the seat from its base caused by cracks around the welded-in bushings.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech Models B300 and B300C airplanes of the same type design that do not have all cabin seats modified through the incorporation of Beech Kit No. 303–307, the proposed AD would require inspecting the cabin seat frames for cracks, repairing any cracks, and modifying the cabin seat frames by installing Beech Kit No. 303–307. The proposed actions would be accomplished in accordance with either Beech SB N. 2443 or Tosington SB No. 001, both dated July 1993, as applicable.

The FAA estimates that 79 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 45 workhours per airplane (5 hours per seat × 9 seats per airplane) to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts will be provided by the manufacturer at no cost to the airplane operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $195,525. These figures take into account that none of the affected airplanes operators have accomplished the proposed action.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Beech Aircraft Corporation: Docket No. 93–CE–42–AD.

Applicability: The following model and serial number airplanes, certificated in any category, that do not have all (9) cabin seats modified through the incorporation of Beech Kit No. 303–307:

Model	Serial Numbers
B300	FL–1 through FL–76.
B300C.	FM–1, FM–2, and FM–3.

Note 1: Beech Service Bulletin (SB) 2443 and Tosington Enterprises Inc. (Tosington) SB No. 001, both dated July 1994, specify procedures for determining whether Beech Kit No. 303–307 is installed on a cabin seat frame.

Compliance: Required within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent separation of the seat from its base caused by cracks around the welded-in bushings, accomplish the following:

(a) Inspect each cabin seat for cracks in accordance with the ACCOMPLISHMENT

INSTRUCTIONS section of either Beech SB 2443 or Tosington SB No. 001, both dated July 1994, as applicable. If any crack is found, prior to further flight, repair the crack in accordance with the applicable SB referenced above.

Note 2: Each cabin seat has a placard on the lower seat frame that specifies whether the seat is manufactured by Gordon-Piatt Energy Group (Beech SB No. 2443) or Tosington Enterprises Inc. (Tosington SB No. 001).

(b) Modify the cabin seat frames by installing Beech Kit No. 303-307 in accordance with the actions specified in the ACCOMPLISHMENT INSTRUCTIONS section of either Beech SB 2443 or Tosington SB No. 001, both dated July 1994, as applicable.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) Service information that applies to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085, or Tosington Enterprises Inc., 2261 Madera Road, Simi Valley, California 93065. This information may also be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri.

Issued in Kansas City, Missouri, on September 2, 1993.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-22208 Filed 9-9-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 71

[Airspace Docket No. 93-AWA-1]

Proposed Alteration of Jet Route J-29

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would realign Jet Route J-29 from the Bangor, ME, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the Halifax, Canada, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). This action was requested by the Canadian government to improve operations and expedite the flow of air traffic transiting to the Halifax area.

DATES: Comments must be received on or before October 29, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANE-500, Docket No. 93-AWA-1, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93-AWA-1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign J-29 from the Bangor, ME, VORTAC (BGR), to the Halifax, Canada, VOR/DME (YHZ). Realigning J-29 would improve operations and expedite the flow of air traffic to the Canadian airspace. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 in effect as of September 16, 1993 (58 FR 36298; July 6, 1993). The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes.

* * * * *

J-29 [Revised]

From the INT of the United States/Mexican Border and the Corpus Christi, TX, 229° radial, via Corpus Christi; Palacios, TX; Humble, TX; Lufkin, TX; Elm Grove, LA; El Dorado, AR; Memphis, TN; Pocket City, IN; INT Pocket City 051° and Rosewood, OH, 230° radials; Rosewood; DRYER, OH; Jamestown, NY; Syracuse, NY; Plattsburgh, NY; Bangor, ME; to Halifax, Canada; excluding the portions within Mexico and Canada.

* * * * *

Issued in Washington, DC, on September 2, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–22158 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 382

49 CFR Part 27

[Docket 49113; Notice 93–18]

RIN 2105–AB60 and AB62

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance; Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department is proposing to amend its rules implementing section 504 of the Rehabilitation Act of 1973 and the Air Carrier Access Act of 1986 concerning the provision of equipment to facilitate the boarding by individuals with disabilities on small commuter aircraft. The proposed rule would address existing problems that result, in some cases, in individuals being denied air transportation by requiring air carriers and airports to work jointly to make lifts or other boarding devices available. The proposed rule also would harmonize requirements relating to airport facilities in the Department's section 504 and Air Carrier Access Act regulations.

DATES: Comments are requested by December 9, 1993. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. 49113, Department of Transportation, 400 7th Street, SW., room 4107, Washington, DC, 20590. Comments will be available for inspection at this address from 9 a.m. to 5:30 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC, 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD); or Nancy Ebersole, Office of Transportation Regulatory Affairs, same address, room 9217, (202) 366–4864.

SUPPLEMENTARY INFORMATION:

Background

In the Department's regulation implementing section 504 of the Rehabilitation Act of 1973, which went into effect in 1979, the Department requires Federally-assisted airports to play a role in boarding assistance for individuals with disabilities:

> Each operator at an airport receiving any Federal financial assistance shall assure that adequate assistance is provided for enplaning and deplaning handicapped persons. Boarding by level entry boarding platforms and by passenger lounges are the preferred methods for movement of handicapped persons between terminal buildings and aircraft at air carrier airports; however, where this is not practicable, operators at air carrier airport terminals shall assure that there are lifts, ramps, or other suitable devices not normally used for freight that are available for enplaning and deplaning handicapped passengers. (49 CFR 27.71(a)(2)(v)).

This provision does not necessarily require that an airport acquire its own lifts or other devices. Airports may comply if other parties at the airport (e.g., air carriers) have devices which can be used for this purpose.

Airlines' boarding assistance responsibilities are discussed in the Department's Air Carrier Access Act (ACAA) regulations. In 1990, when the Department published its ACAA rule (14 CFR part 382), the Department knew that the rule did not address completely the issue of boarding assistance for individuals with disabilities—particularly those with mobility impairments—on some small commuter aircraft. Section 382.49(a) requires carriers to provide boarding assistance, including, "as needed, the services [of] personnel and the use of ground wheelchairs, boarding wheelchairs, on-board wheelchairs . . . and ramps or mechanical lifts." Where level entry boarding platforms are not available, "carriers shall use ramps, lifts, or other devices (not normally used for freight) for enplaning and deplaning handicapped individuals who need them" (§ 382.39(a)(2)). However, the rule provides a partial exception to the boarding assistance requirement:

> In the event that the physical limitations of an aircraft with less than 30 passenger seats preclude the use of existing models of lifts, boarding chairs, or other feasible devices to enplane a handicapped person, carrier personnel are not required to carry the handicapped person onto the aircraft by hand. (§ 382.39(a)(4)).

This effect of this provision is that if there is no existing model of lift, boarding chair, or other device that will work with a particular aircraft having fewer than 30 seats, so that hand-carrying (i.e., having airline personnel physically pick up a passenger in their arms and carry the passenger on board) is the only means by which the passenger can board the aircraft, the carrier is not required to provide boarding assistance. The rationale for not requiring hand-carrying is sound: hand-carrying involves significant risks of injury to both carrier personnel and passengers, and it is an undignified way of providing assistance. Moreover, in some models of aircraft, the stairs that are built into the door of the aircraft are not strong enough to accommodate two or three persons at a time, as either hand-carrying or the use of a boarding chair would require. The result of this exception, however, is that carriers may legally deny boarding to persons with mobility impairments in some

situations. (For discussion of this provision and its background, see 55 FR 8033–8034; March 6, 1990.)

In an advance notice of proposed rulemaking (ANPRM) issued at the same time as the Department's Air Carrier Access Act rule (55 FR 8078; March 6, 1990), the Department asked for additional information and comment on the subject of lift devices for small commuter aircraft. In the ANPRM, the Department noted that, in 1990, the development of lift devices appeared not to have proceeded to the point where imposing requirements for them through regulation would have been justified. We received little information in response to this ANPRM. Subsequently, the Department learned that a number of manufacturers had developed and were attempting to market lift devices for small aircraft, and that some airlines had tested models of these lifts in a variety of operational conditions.

In June 1992, the Department held a workshop of parties interested in this issue, including representatives of commuter airlines, disability groups, lift manufacturers, and aircraft manufacturers. The Department heard presentations from lift manufacturers concerning their devices and from some air carriers that had tested various devices with their aircraft. Department staff also conducted informal surveys of carriers that used various devices to determine how well carrier personnel believed the devices had worked with different types of commuter aircraft. From this information, it appears to the Department that there are now available for marketing several lift devices that can effectively facilitate boarding assistance for persons with mobility impairments on most small commuter aircraft in the 19–30 seat capacity range. The FAA has recently issued an advisory circular concerning recommended specifications for such lifts. (FAA Advisory Circular 150/5200XX—"Guide Specification for Mobility Impaired Passenger Boarding Devices." Interested persons may obtain copies from the "For Further Information Contact" address listed above.) It is the Department's understanding that the lift models we have seen or heard described either now meet, or can readily be modified by their manufacturers to meet, the FAA advisory circular's recommendations. The Department seeks comment on whether this understanding is accurate.

At the same time, none of the participants in the workshop appeared to suggest that the existing lift devices were designed to work, or could work, with many of the smallest aircraft (e.g., those under 19 passenger seats). The Department seeks comment on whether there are existing lifts that will work well with certain aircraft in the 18-and-under seat category. Carriers also raised significant concerns about the compatibility of the lift devices with certain existing aircraft models in the 19–30 seat class. For example, while lifts could pull up to the door of the Fairchild Metro, there would be a foot or less clearance between the lift and the propeller assembly, creating a risk of costly damage to the aircraft. Some carrier participants also expressed concerns that, once a lift got a passenger to the aircraft door, it could be difficult in some models to transfer the passenger to a seat in the aircraft (e.g., because of narrow very limited maneuvering room in some aircraft cabins). The Department seeks updated information from manufacturers, carriers, and other interested parties concerning the types of lifts available and their suitability for various models of commuter aircraft.

One of the most important discussions at the workshop concerned the allocation of responsibility for obtaining and operating lifts for accessing small aircraft. Generally, commuter carriers and airport operators each believed that the other should bear the primary responsibility and cost for ensuring accessibility to small commuter aircraft. For example, the Regional Airline Association (RAA) representatives at the June 1992 workshop asserted that their efforts to interest airports in sharing the cost of lift devices had generated little response. Carriers cited what they viewed as the greater financial resources of airports (e.g., airports could apply for FAA Airport Improvement Program funds or passenger facility charge revenues to help fund lifts); airports cited the traditional control of carriers over passenger boarding. Both were wary of potentially increased liability exposure from using lift devices to board passengers with disabilities. Disability group representatives were concerned that, in the absence of regulatory direction from the Department, there would be an impasse that would postpone unreasonably passengers' ability to use small commuter aircraft. Lift manufacturers were concerned that lengthy delays in resolving issues in this area could undermine the fragile, but developing, market for their products.

The Department views airports and carriers as key parts of an inextricably intertwined air transportation system. No one can fly between Point A and Point B without using at least one carrier and at least two airports. To complete a trip, every passenger must be able to travel to the first airport, move through the first airport (including ticketing, baggage checking, and check-in, where necessary), use the interface provided by some combination of the airport and the carrier to enter the aircraft, get to his or her seat on the aircraft, fly to the second airport, and reverse the process at that end of the trip. What matters, from the passenger's point of view, is not which participant in the system is responsible for each part of the process, but that the entire process operates so that the passenger can successfully complete the trip.

The air travel system would never work for anyone unless airports and carriers worked together to get passengers from their place of origin to their destination. This is as true for passengers with disabilities as for anyone else. From the Department's point of view, airports and carriers have the responsibility of working together to ensure that passengers with disabilities can use commuter air service, which has become an increasingly important part of the air transportation system. Consequently, the Department is proposing to amend both its Air Carrier Access Act regulations (which apply to carriers) and its section 504 regulations (which apply primarily to airports) to establish the joint responsibility of both carriers and airports to ensure that passengers with disabilities have the opportunity to use commuter air service.

The NPRM

The NPRM would create identical requirements in the ACAA and section 504 rules, directing each airport and each carrier serving that airport to establish a written agreement that would provide for ensuring that lifts, ramps, or other suitable devices would be provided and used to ensure that passengers could enter and leave small commuter aircraft. Under the existing regulation, the Department has interpreted "suitable devices" to include boarding chairs. The Department seeks comment on whether we should redefine the term "suitable devices" to limit the use of boarding chairs to situations where a lift is inoperable or other emergencies. We note that, as the Department uses the terms, the use of boarding chairs is distinguishable from "hand-carrying," which involves the direct picking up of the passenger's body in the arms of carrier personnel.

The written agreement between carriers and airports, which would not have to be submitted to DOT but which would be kept on file for DOT

inspection, would have to be completed within nine months of the effective date of the rule. The Department seeks comment on whether a longer (e.g., 12 months) or shorter (e.g., 3 or 6 months) deadline is appropriate for this part of the implementation of the rule.

The agreement would call for full implementation of accessibility to small commuter aircraft at the airport no later than three years from the effective date of the rule. The proposed phase-in period is intended to permit an orderly acquisition process for equipment and to avoid increasing costs through a too-abrupt startup requirement. The Department seeks comment on whether this phase-in for implementation should be longer or shorter. The Department also seeks comment on what mechanism, if any, the rule should provide for adding or deleting carriers which begin or terminate service to a particular airport.

The Department seeks comment on whether the rule should allow carriers to seek a waiver from the requirement to use a lift or other device with a particular type of aircraft on the basis that use of the device would present an unacceptable risk of significant damage to the aircraft. For purposes of generating comments on this issue, we have included such a provision in the proposed regulatory text, though the Department has not decided whether it favors the concept. The Department seeks comment not only about whether there should be such a provision, but also how such a provision would best be framed to accommodate the legitimate concerns of both carriers and passengers.

The Department recognizes the concerns that have been expressed about the difficulty that may occur in some aircraft (e.g., the BAE Jetstream models) in getting a passenger with a disability to a non-exit row seat after the individual has entered the aircraft door. The Department does seek information from commenters on which aircraft models present this problem, and any suggestions for solving it. The Department also seeks comment on whether a waiver provision should be provided for situations of this kind. Such a waiver could permit an individual to be denied boarding in such an aircraft be based on functional criteria (e.g., inability to use an on-board wheelchair, to occupy a non-exit seat if exit seating is precluded by FAA rules, or to be moved physically through narrow aisles).

The main focus of the boarding assistance requirement in the NPRM is small commuter aircraft (i.e., those in the 19–30 seat range). As drafted, the NPRM would require boarding assistance for any aircraft with 19 or more seats when level-entry boarding was not available. This would mean that lifts, ramps or other suitable devices would need to be available, for example, to assist persons with disabilities in boarding a 45-seat or 60-seat aircraft as well as one in the 19–30 seat range. Otherwise, in the absence of hand-carrying (which the NPRM does not propose to require), persons with disabilities would be unable to use these aircraft.

It is the Department's understanding that level-entry boarding (whether through existing models of lifts, boarding platforms, etc.) is often available for these larger aircraft, but we seek comment on whether the contrary is frequently the case. In addition, we seek comment on whether it is feasible to use the lifts developed for 19–30 seat aircraft for these larger aircraft, what additional costs may be involved, and whether there are any feasible alternatives to applying this requirement to the 31-seat and above category of aircraft.

As noted above, the NPRM does not propose to require hand-carrying. However, the Department seeks comment on whether there should be an exception for emergency circumstances (e.g., a lift malfunction at the time the passenger needs to board), in which case hand-carrying could be required if the passenger requested it and it was physically possible for carrier personnel on the scene to provide the service. The Department also asks whether, in the interim before lifts are made available at a particular location, it is feasible or desirable to require the use of boarding chairs or hand-carrying.

The Department also seeks comment on whether the rule should require training for persons who operate boarding lifts. If so, what should the content and duration of the training be? What would be the cost of this training, if the Department required it?

The Department is also concerned about effects of the proposal in small airports. The proposal would apply only to "commercial service airports," those with more than 2,500 enplanements per year. However, it appears that the cost per boarding of installing and maintaining lift equipment at small commercial airports could be very high. Should there be a waiver provision that would excuse carriers and operators at small commercial service airports from obtaining lift equipment if the cost per boarding exceeded a certain amount? If so, how would the projection of likely numbers of boardings (crucial to making this cost determination) be done? What should the cost per boarding threshold be? What should the Department regard as a "small" commercial service airport for this purpose? Alternatively, would stretching out the implementation schedule for these smaller airports (e.g., to five years, if the basic proposed implementation schedule of three years were used elsewhere) be feasible? At an airport where such a waiver were granted, should use of a boarding chair or hand-carrying be required?

Another area of concern that has been expressed about using lifts to board passengers on small commuter aircraft is the possible disruption of schedules. That is, it takes a certain amount of time to deploy a lift, cycle the lift to board a passenger, and remove the lift. This time is increased if more than one passenger is using the lift for a particular flight. With some lift models (i.e., those without integrated stairs) it would not be possible to board other passengers at the same time the lift is being used, unless the aircraft has two entrances that can be used simultaneously. Given the hub-and-spoke system into which commuter flights feed, and the sometimes close schedule tolerances involved, the time taken to use the lift to board passengers could delay flights, possibly leading to other passengers missing connections at hubs in some situations. The Department seeks information on how serious a problem this would be. How much tolerance is there in schedules? How much time would use of a lift involve? How frequently are situations likely to occur in which there would be multiple lift boardings, especially at small airports? Are the probabilities of delay significantly greater than the probabilities of delay from routine causes such as weather and mechanical problems? If delays would occur, what, if anything, could be done to mitigate the problem?

Airport Facility Requirements and Application of Section 504 to EAS Carriers

The Department's section 504 and ACAA regulations' sections concerning airport facilities differ in a number of details. This NPRM would also make changes to harmonize the two sets of requirements. The Department published a notice of proposed rulemaking for section 504 and an advance notice of proposed rulemaking under the ACAA that would have harmonized the two provisions in 1990, at the same time as it published its ACAA final rule. The Department received very few comments in response to those notices, and many of the specific points raised by the

commenters have been overtaken by the enactment of the Americans with Disabilities Act (ADA). The Department will take these existing comments into consideration, along with the comments received in response to this NPRM, as we work toward a final rule on this subject.

Both the section 504 and ACAA proposals would add a requirement for a "program accessible" path from the beginning of a passenger's encounter with the airport facility to the aircraft door. Obviously, the means of boarding an aircraft, whether a level-entry boarding platform or a mechanical lift, is a part of this path. So are parking lots, ground transportation facilities, and terminal entrances. One area of particular concern is the way of moving between the gate and the means of boarding the aircraft. Often, the gate area is on an upper level of the terminal, and passengers have to descend to the ground level and cross the tarmac to get to a commuter aircraft that is parked some distance from the terminal building. In other cases, a ramp or level entry boarding platform may have stairs or other barriers involved with its use. If there is no program accessible means of making this part of the journey, then a significant barrier to the use of the system by a passenger with a mobility impairment exists.

The concept of program accessibility used here is the same one explained by the Department of Justice in its ADA rules. The basic idea is that a key aspect of airports' and carriers' program—getting someone through the airport and onto an aircraft—must be accessible to individuals with disabilities, including those using wheelchairs. There is not a hard and fast requirement that facilities be modified for accessibility (e.g., that an elevator be installed everywhere there is a stairway). Means other than structural modifications of facilities may be used (e.g., assistance of airport personnel). The bottom line performance requirement is that a passenger be able to complete the journey to the aircraft. The Department seeks comment on whether a phase-in period for meeting this requirement should be stated in the rule and, if so, what it should be.

The Department is aware that ensuring a program accessible path can involve costs to airports, which may be significant in some cases. The Department does not have the data from which it can quantify these potential costs at this time, in part because we do not know how many cases there are where structural modifications would be necessary. We request information on this matter, particularly for small airports.

The Department does not believe that any airport-related changes to its ADA regulation are needed at this time. Air carriers' terminal facilities appear not to be subject to direct ADA coverage. Under the Department of Justice (DOJ) rules implementing Title III of the ADA, airport terminals are not viewed as a place of public accommodation. The reason is that places of public accommodation include only those terminals used for the provision of "designated" or "specified" public transportation, and transportation by aircraft does not constitute "designated" or "specified" public transportation. Congress excluded transportation by aircraft from these ADA provisions because Congress had already subjected carriers to the ACAA, and it did not want to impose duplicative requirements.

The language and legislative history of the ADA, however, reveal no Congressional intent that carriers' facilities be subject to any different substantive requirements from those affecting places of public accommodation. It is clear that carriers have an ACAA obligation with respect to airport facilities. In defining the standard by which carriers' compliance with this obligation is judged, the Department believes it makes sense to refer to the ADA standard for public accommodations. Consequently, the proposed rule provides that carriers, with respect to terminal facilities and services, would be deemed to comply with their ACAA obligations if they meet the requirements spelled out for places of public accommodation in Department of Justice ADA rules.

Under Department of Justice regulations implementing Title II of the ADA (28 CFR part 35), "title II applies to everything anything a public entity does * * * All governmental activities of public entities are covered." (56 FR 35696; July 26, 1991). Public airport authorities are public entities for purposes of Title II; consequently, their activities and facilities appear subject to the requirements of DOJ Title II rules. It has long been clear that airport authorities that receive DOT financial assistance are subject to section 504 of the Rehabilitation Act of 1973, as amended. In amending the Department's section 504 rule provision concerning DOT-assisted airports, it makes sense to refer to ADA standards. (Congress, in enacting the ADA, made clear that it intended for consistent substantive standards to apply under both statutes.) Therefore, under the NPRM, the basic standard for judging whether a public airport authority complies with section 504 is cbmpliance with the DOJ rules for Title II of the ADA.

Obviously, there are some portions of airports at which airport operators' section 504 obligations and the ACAA obligations of carriers overlap. The Department believes that most of these overlaps can be treated in the same manner as the relationships between public entity landlords and private entity tenants discussed in the Department of Justice ADA regulations.

The existing DOJ and DOT ADA regulations say little specifically about airports. For this reason, the Department is proposing to retain, with some modifications, the airport-specific requirements of the current ACAA and 504 rules. The Department seeks comment, given the proposed reference to ADA standards, on whether any of the specific airport facility requirements (including phase-in periods for various requirements) in the NPRM are unnecessary or would conflict with standards derived from the ADA. The Department also seeks comment on whether, on the other hand, it would make more sense to set forth in these rules specific ACAA/504 standards applicable to carriers and airports, without reference to ADA standards. If the Department did so, would the current standards be sufficient, or should there be additions?

The NPRM would repeat the existing language of the ACAA regulation concerning TDDs, saying that at least one TDD shall be placed in each terminal. The Department has interpreted "terminal" in this context to mean, not the entire airport, but a distinguishable segment of an airport. For example, if, as at many major airports, there are several different satellite terminals, or different terminal buildings, or different concourses that have their own security checkpoints, each of those areas is considered a "terminal" that would have a TDD. The same is true for common terminal areas, such as ticketing or baggage retrieval areas. The Department seeks comment on whether this existing understanding of this provision should be made a part of the regulatory text (or, indeed, whether any different provision should be included in the regulatory text). Particularly with respect to carriers covered under the ACAA, the Department seeks comment on whether a specific ACAA standard is preferable to reliance on ADA-derived standards on this subject.

Previous DOT rulemakings have asked for comments concerning intra-terminal transportation. Larger airport terminals often have facilities or

services (e.g., electric carts, moving sidewalks) to aid passengers in traveling the seemingly endless distances between the entrance and their gate, or between concourses. The Department's information is that some of these facilities (e.g., moving sidewalks) generally tend to be accessible. Electric carts are generally not accessible to individuals who use wheelchairs. However, the Department's understanding is that carts which can accommodate a wheelchair user in his or her own wheelchair (i.e., not requiring a transfer) are not readily available at this time. For these reasons, the Department is not proposing any specific provisions concerning intra-terminal transportation in this NPRM.

The provisions of the NPRM concerning information media in airports useful to persons with hearing or vision impairments are substantively unchanged from the existing ACAA and 504 requirements. The Department notes that requirements for providing information in a way that persons with hearing impairments can use do not necessarily require elaborate, expensive electronic systems. In at least some airport situations, it is possible that relatively simple, inexpensive solutions may work.

In both the ACAA and section 504 rules, terminology would be updated (e.g., changing "handicapped person" to "individual with disabilities"), consistent with practice under the ADA. The proposed section 504 amendment would also make two administrative additions, requiring the submittal of transition plans by any airports which had not already done so and specifically applying nondiscrimination on the basis of disability requirements to subsidized Essential Air Service (EAS) carriers. Unlike most carriers, who do not receive Federal assistance, these carriers have been covered under the existing section 504 rule, but they have not been mentioned specifically, since part 27 was promulgated before the Essential Air Service program came under DOT jurisdiction in January 1985. This administrative addition does not create any new obligations for subsidized EAS carriers.

Proposed Amendment of Communicable Diseases Section

Section 382.51 of the ACAA rule provides that a carrier may not refuse transportation to a passenger, require the person to provide a medical certificate, or impose other conditions or restrictions on passengers, on the basis that the passenger has a communicable disease, except with respect to an individual who has a communicable disease or infection which has been determined by the U.S. Surgeon General, the Centers for Disease Control, or other Federal public health authority knowledgeable about the disease or infection, to be transmissible to other persons in the normal course of flight.

This provision was originally designed in response to a number of incidents in the 1980s in which persons with AIDS had been denied transportation or otherwise discriminated against by air carriers, apparently because of fear of, or misinformation about, HIV infection and how it is transmitted. (The level of public awareness about HIV transmission is doubtless better now than in the mid-1980s, though one well-publicized instance of mistreatment of passengers by personnel of an air carrier, following the April 1993 Gay Rights march in Washington, DC, is troubling.)

It has been apparent to the Department for some time that this provision of the rule needs clarification. Given the absence of definitive guidance from the Surgeon General, the Centers for Disease Control, or the Public Health Service, (which the Department has unsuccessfully sought), the closest approach to medical guidance the Department has been able to find is a Food and Drug Administration (FDA) regulation listing several diseases (e.g., infectious tuberculosis, several viral hemmoragic fevers) appropriate for travel restrictions. The Department issued guidance based on this FDA list, stating that since other diseases have not been named by Federal public health authorities, carriers may not deny or restrict transportation of persons with other diseases.

Carrier medical personnel have expressed the concern that this guidance is too restrictive, leading to potential conflicts between the rule and their normal, prudent medical judgment. They have cited persons in the infectious stages of chicken pox or measles as persons who it may be appropriate to restrict, to protect the health of other passengers. In response to their concern, the Air Transport Association (a lobbying group for large air carriers) requested that the Department withdraw the guidance in question. In addition, it has been pointed out that, read literally, the current regulatory provision could be construed allow carriers to exclude persons with illnesses that are clearly communicable by airborne transmission or casual contact but which are not serious for most persons, such as the common cold (the Department would not construe the rule in this fashion, however).

The Department believes that three principles should drive the policy concerning communicable diseases:

(1) It is reasonable for carriers to impose restrictions on transportation only of persons with diseases that are readily communicable, in the normal course of flights, by airborne transmission or casual contact. (For example, restrictions could not be imposed on persons because they were infected with HIV.)

(2) It is reasonable for carriers to impose restrictions on transportation only of persons with diseases that have serious consequences for the health of persons who catch the disease. (For example, restrictions could not be imposed on persons because they have a common cold.)

(3) Carriers should impose restrictions on persons for reasons relating to communicable diseases only with the advice and concurrence of a physician. (That is, airline personnel such as pilots, flight attendants, or gate agents could not make unilateral decisions to impose restrictions on passengers.)

The Department believes that application of these three principles would achieve the Department's goals concerning nondiscrimination on the basis of disability and would allow airline medical personnel reasonable discretion to exercise their professional judgment. While the Department has issued additional guidance to this effect, readers of part 382 probably could not clearly infer these principles from the current regulatory text. For this reason, the Department believes there is merit in clarifying the regulatory text by rewriting the current § 382.51(b) to reflect these three principles. The proposed amendment to this section has this objective.

The NPRM proposes two methods carriers could use to implement these principles. First, when faced with someone who may have a contagious disease that may make travel inadvisable, the carrier can obtain a specific recommendation from a physician. Second, the carrier, together with its medical staff or consultants, can devise a list of diseases that can affect travel, consistent with the three principles. The list would include information on the stages of various diseases during which travel would be counterindicated. The list would be made part of the carrier's regular information base for employees (e.g., manuals, computer reservation system instructions). To promote consistency, we believe that carriers (e.g., through their trade organizations) should

coordinate a single, unified list, so the same diseases have the same consequences on all airlines. The Department would informally work with carriers on such a list; we seek comment on whether a regulatory mandate for uniformity is needed.

In cases where there is no dispute between the carrier and a passenger over the fact that a passenger has a disease on the list at a point in time when it is contagious, the passenger could be denied transportation until a later time without the carrier having to obtain a recommendation from a physician in the particular case. However, if the passenger denies that he or she has a disease on the list, or acknowledges having the disease but insists that it is not at the stage which the list describes as infectious, then the carrier employee would have to consult a physician. The Department seeks comment on the entire proposal to revamp the infectious diseases provision portion of the rule.

In addition, the proposed amendment would state that airlines must impose the least restrictive alternative in communicable disease situations (e.g., should not deny transportation when requiring a medical certificate is sufficient); must allow a passenger to travel at his or her original fare if travel is postponed as the result of having a communicable disease; and must provide, on request, a written explanation of any restrictions that are imposed for reasons relating to communicable diseases. The Department seeks comment on this proposal and on communicable disease issues generally.

Petitions for Rulemaking

The Department has received three petitions for rulemaking from interested individuals which we believe have sufficient merit to warrant a request for public response. The Department has not determined whether or not to propose the amendments to its ACAA regulation requested by the petitioners, but we seek comment on whether the Department should propose these changes.

1. Requirement for Medical Oxygen

Under the current ACAA regulation, providing oxygen for passengers who need it during a flight is optional with carriers. They have discretion to provide it or not. For example, § 382.33(b)(1) allows carriers to insist on an advance request for medical oxygen, "if this service is available on the flight."

Ms. Melinda Lebens, a consumer who uses oxygen, has petitioned the Department to require carriers to provide medical oxygen to passengers who need it. Her petition relates that she has had difficulty traveling in some instances because the carrier for a particular leg of a trip has declined to provide oxygen. She views such a refusal as contrary to the nondiscrimination mandate of the ACAA, since it acts as a barrier that prevents her from traveling by air on account of her disability. Ms. Lebens' request, as the Department understands it, would not affect the ability of carriers to require advance notice or to charge a user fee for the provision of oxygen.

Another consumer, Ms. Gladyse B. Russell, also has made a request for rulemaking concerning oxygen. She is concerned that there are no requirements for oxygen to be made available at airports. This problem concerns the airport where the passenger first arrives, hubs where the passenger changes flights, and the airport where the passenger finally arrives. Just as a wheelchair user needs mobility devices at all these points, Ms. Russell says, an oxygen user needs oxygen provided in order to have access to airport facilities. The Department seeks comment on whether we should propose a requirement for making oxygen available to passengers who need it at airports and, if so, which party or combination of parties should be responsible for providing it.

The Department has received other correspondence, over a period of time, from consumers concerned about the availability of oxygen on flights. Some of these letters have suggested allowing passengers to bring their own oxygen on board. Current FAA safety regulations do not allow individuals to bring their personal oxygen supplies aboard an aircraft, since oxygen in a container is a hazardous material. Because these letters pertain to an FAA safety regulation, they are beyond the scope of this rulemaking. Other letters have requested that carriers not charge for providing oxygen to passengers, saying that it should be regarded as an accommodation (analogous to providing boarding assistance or on-board wheelchairs to individuals with mobility impairments) for which carriers should not be permitted to impose special charges. The Department seeks comment on this suggestion, on the prices that are charged for oxygen, and on whether there is any appropriate role for the Department, under the ACAA, concerning the pricing of in-flight oxygen.

2. Handling of Collapsible Electric Wheelchairs

The Department received a petition from Mr. Ralph Black, an attorney representing a consumer who uses a collapsible electric wheelchair, powered by a non-spillable battery. The consumer has encountered difficulty with airlines that, in her view, treat the wheelchair as it were a non-collapsible wheelchair powered by a spillable battery. The petition sets forth a rationale for changing the ACAA rule and suggested revisions to the rule's language. For the information of commenters, we are printing the key portions of the petition below:

Petitioner's Explanation of Proposed Changes

1. Section 382.41(g) would be amended to provide that, in the case of a battery-powered wheelchair which is designed to fold or collapse, the passenger may request that the wheelchair be folded and stored separately from the batteries.

2. Section 382.41(g) would be further amended to specify that, where a wheelchair is powered by non-spillable batteries which are housed in a suitable rigid container, the carrier shall transport the batteries without removing them from that case for hazardous materials packaging, unless there is obvious evidence that the batteries are damaged, or unless the passenger requests that the batteries be packaged as hazardous materials.

3. The amendments would also specify that the carrier must accept a passenger's declaration that batteries are non-spillable or, alternatively, establish and maintain a list of all non-spillable batteries which meet the requirements of 49 CFR 173.159(d).

The reason for these requested changes is that § 173.159(d) provides that non-spillable batteries are exempt from hazardous materials packaging, but some airlines interpret this to mean that they have the right to go ahead and package such batteries as hazardous materials if they wish. Section 175.10(a)(19) does provide that non-spillable batteries should not be detached from the wheelchair, but this does not take into account that newer lightweight collapsible power wheelchairs are not designed to be left upright in the cargo hold. These chairs can be damaged (and frequently are) if they are transported in this fashion. The basic problem is that some airlines read these two provisions together and conclude that batteries should always be left attached to power wheelchairs and, if the passenger does request that the chair be collapsed and the batteries removed, then the carrier sometimes insists that the batteries must be packed.

This is appropriate when the passenger is using wet cell batteries, but it is unnecessary and inappropriate when non-spillable batteries are involved. Such batteries pose no safety hazard and requiring them to be packaged is inconvenient because it is usually necessary to remove the batteries from the special battery case in which they are typically housed. This involves disconnecting the internal wiring and can result in damage to the wheelchair or the batteries if the airline personnel do not properly rewire the batteries upon arrival.

For the reasons set forth below, we believe the carriers are misinterpreting existing

regulations and that, when the hazardous materials regulations are read in conjunction with the Air Access Act regulations, one must conclude that this practice is prohibited.

First, I would point out that § 382.41(b) clearly allows a person with a disability to bring a respirator, with non-spillable batteries, into the cabin of the aircraft. This is done because there is no need to package non-spillable batteries as hazardous materials and the needs of the passenger require that the carrier permit such batteries to be transported without this packaging. Although this provision is not directly applicable here, the principle is relevant. If non-spillable batteries can be carried into the aircraft cabin without special packaging when the passenger's disability-related needs so require, it seems logical that they could be checked as baggage (where there is presumably less danger) for similar reasons.

As discussed above, removing the batteries from their case is very problematic because this means that the wiring inside the battery case must be disconnected and reconnected. This is a procedure which requires time and some skill and, if airline personnel are not able to even distinguish one type of battery from another (as the airlines claim), then it is obvious that there is considerable risk in relying on them to disconnect and properly rewire the batteries.

Second, Section 382.41(g)(5) provides the carrier must follow written instructions given the passenger for the assembly of wheelchairs. If a passenger gave written instructions to the effect that their collapsible wheelchair be folded and the non-spillable batteries be left in their case, it would appear that the airline would be compelled to use the exemption in § 173.159(d) in order to comply with the written instructions authorized by § 382.41(g)(5). This is just another instance when the Air Access regulations interact with and override the carrier's discretion under § 173.159(d).

Petitioner's Proposed Regulatory Text Changes to 49 CFR 382.41(g)

(g) Where baggage compartment size and aircraft airworthiness considerations do not prohibit doing so, carriers shall accept as baggage battery-powered wheelchairs, including the batteries, consistent with the requirements of DOT regulations on the transportation of hazardous materials (49 CFR parts 172, 173 and 175).

(1) Carriers may require that qualified handicapped individuals wishing to have electric wheelchairs transported on a flight check in one hour before the scheduled departure time for the flight. If such a handicapped individual checks in after this time, the carrier shall nonetheless carry the wheelchair if it can do so by making a reasonable effort, without delaying the flight.

(2) Whenever feasible, the carrier shall transport electric-powered wheelchairs secured in an upright position, so that batteries need not be separated from the wheelchair in order to comply with DOT hazardous materials rules. *However, when an electric-powered wheelchair is designed to fold or collapse, the passenger may request that the batteries be removed and the wheelchair be folded.* [emphasis in original, denoting changed text]

(3) When a wet-cell battery is removed from the wheelchair, carriers shall, upon request, provide packaging for the batteries meeting the requirements of the DOT hazardous materials rules and package the battery. Carriers may refuse to use packaging materials or devices other than those they normally use for this purpose.

(4) *When non-spillable batteries are removed from a wheelchair, the carrier shall, at the request of the passenger, transport such batteries without packaging them as hazardous materials, so long as there is no obvious evidence of punctures or damage of the batteries and the batteries are contained in a rigid, closed container which protects them from damage and prevents short-circuits.* [emphasis in original, denoting changed text]

(5) *Carriers shall accept a passenger's declaration that batteries are non-spillable unless the carrier has established a list of all batteries meeting the requirements of 49 CFR 173.159(d). If the carrier elects to establish such a list, it shall be updated at least annually and shall be distributed to appropriate personnel and to the public upon request at each location from which the carrier operates passenger service.* [emphasis in original, denoting changed text]

(6) Carriers shall not drain batteries.

(7) Handicapped individuals shall be permitted to provide written directions concerning the disassembling and assembling of their wheelchairs.

3. Seating Assignments To Accommodate Passengers' Disabilities

Section 382.37 of the existing rule, concerning seating assignments, prohibits carriers from excluding a person from a particular seat location or requiring a person to sit in a particular location, on the basis of disability, with certain exceptions (e.g., to comply with the FAA's exit row seating rule). The provision does not require an airline to provide a seat assignment for a passenger that the passenger asserts a need for to accommodate a disability.

A consumer, Ms. Anna Mae Doyle, requests an amendment to this provision. Ms. Doyle has a disability that renders one of her legs essentially immobile (she likens her situation to wearing a full-length leg cast beginning at the hip). She asked an airline to arrange seating to accommodate her disability (i.e., a bulkhead seat or other seat that would allow her to minimize discomfort and avoid having her leg extend into the aisle where it is frequently bumped and could be a hazard to others using the aisle). The airline declined to provide this accommodation.

Ms. Doyle suggests that the rule be modified to require airlines to seat a passenger in a location requested by the passenger when sitting in that location is necessary to reasonably accommodate the passenger's disability, even if this requires changing the seat assignment of another passenger. The Department also requests comments on whether, if this petition is granted, carriers should be permitted to require advance notice for this accommodation.

Regulatory Analyses and Notices

This NPRM does not propose a major rule under Executive Order 12291. It is a significant rule under the Department's Regulatory Policies and Procedures. A regulatory evaluation that examines the projected costs and impacts of the proposal has been placed in the docket. The evaluation assumes that the rule will apply at 546 commercial service airports. The annual compliance cost is estimated to range between approximately $1.0 and $9.2 million, depending on the number and type of lift devices needed at different size airports.

The Department certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The basis for this statement is that the overall national annual costs are not great, and few airline companies and commercial service airports could properly be regarded as small entities. Nevertheless, the Department seeks comment on whether there are small entity impacts the Department should consider, and what those impacts are. If comments provide information that there are significant small entity impacts, the Department will provide a regulatory flexibility analysis at the final rule stage. The Department does not believe that there would be sufficient Federalism impacts to warrant the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 382 and 49 CFR Part 27

Aviation, Handicapped.

Issued this 26th day of August 1993, at Washington, DC.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department proposes to amend 14 CFR part 382 and 49 CFR part 27 as follows:

14 CFR chapter II, Office of the Secretary, Department of Transportation (Aviation Proceedings).

PART 382—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL

1. The authority citation for 14 CFR Part 382 continues to read as follows:

Authority: Sections 404(a), 404(c) and 411 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1374(a), 1374(c), and 1381).

2. In 14 CFR part 382, the word "handicap" is changed to the word "disability" wherever it occurs. The term "handicapped individual(s)" is changed to "individual(s) with disabilities" wherever it occurs. The term "qualified handicapped individual(s)" is changed to "qualified individual(s) with disabilities" wherever it occurs.

3. Section 382.23 of 14 CFR part 382 is revised to read as follows:

§ 382.23 Airport facilities.

(a) This section applies to all terminal facilities and services owned, leased, or operated on any basis by an air carrier at a commercial service airport.

(b) Air carriers shall ensure that the terminal facilities and services subject to this section shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Air carriers shall be deemed to comply with this Air Carrier Access Act obligation if they meet requirements applying to places of public accommodation under the Department of Justice (DOJ) regulations implementing title III of the Americans with Disabilities Act (ADA) at 28 CFR part 36.

(c) In addition to requirements of paragraph (b) of this section, terminal facilities and services covered by this section shall provide the following accessibility features:

(1) The basic terminal design shall permit efficient entrance and movement of individuals with disabilities while at the same time giving consideration to their comfort, convenience, and safety. The design, especially concerning the location of means of vertical access, shall minimize any extra distance that individuals with disabilities must travel, compared to other persons, to reach ticket counters, waiting areas, baggage handling areas, and boarding locations.

(2) The carrier shall ensure that all portions of a passenger's path between the entrance to the facility (including parking and public transportation as well as the entrance to terminal buildings) and the aircraft that are under the control of the carrier are program accessible to passengers with disabilities, including individuals who use wheelchairs.

(3) The ticketing system shall provide individuals with disabilities with the opportunity to use the primary fare collection area to obtain a ticket and pay the fare.

(4) Outbound and inbound baggage facilities shall allow efficient baggage handling by individuals with disabilities. Passenger baggage facilities shall be designed and operated without unattended physical barriers, such as gates, that are inaccessible for individuals with disabilities.

(5) Each terminal shall contain at least one telecommunications device for the deaf (TDD) to enable persons with hearing impairments to make phone calls from the terminal. The TDD(s) shall be placed in a clearly marked, readily accessible location, and airport signage shall clearly indicate the location of the TDD(s).

(6) Terminal information systems shall take into consideration the needs of individuals with disabilities. The primary information mode shall be visual words or letters, or symbols, using lighting and color coding. Terminals shall also have facilities for providing information aurally.

(d) Systems of inter-terminal transportation, including, but not limited to, shuttle vehicles and people movers, shall comply with applicable requirements of the Department of Transportation's ADA rule, 49 CFR parts 37 and 38.

(e) Contracts or leases between carriers and airport operators concerning the use of airport facilities shall set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by this part and applicable section 504 and ADA rules of the Department of Transportation at 49 CFR part 27 and Department of Justice at 28 CFR part 35.

A. In paragraph (a)(2), the word "suitable" shall be added before the words "devices (not normally used for freight)" and the following sentence is added at the end of the paragraph as set forth below.

B. Paragraph (a)(4) is removed, paragraph (a)(3) is redesignated as paragraph (a)(4), and a new paragraph (a)(3) is added to read as follows:

§ 382.39 Provision of services and equipment.

* * * * *

(a) * * *

(2) * * *

In no case shall carrier personnel be required to hand-carry a passenger in order to provide boarding assistance (i.e., to directly pickup the passenger's body in the arms of one or more carrier personnel).

(3) Each carrier conducting passenger operations at a commercial service airport involving aircraft which passengers at that airport cannot enter or leave using accessible level entry boarding platforms or mobile lounges shall ensure that ramps, mechanical lifts, or other suitable devices (not normally used for freight) are available for the boarding of individuals with disabilities. The carrier shall use these devices to provide boarding assistance to individuals who need this assistance.

(i) Each such carrier shall negotiate in good faith with the airport operator at each such airport concerning the acquisition and use of boarding assistance devices. The carrier(s) and the airport operator shall, by [a date no later than nine months from the effective date of this section], sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. This document shall be retained by each party to it and made available, on request, to representatives of the Department of Transportation.

(ii) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed no later than [a date three years from the effective date of this section]. All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(iii) The agreement is not required to provide for the use of boarding devices or boarding assistance concerning aircraft with a capacity of fewer than 19 passenger seats. However, if boarding devices or boarding assistance provided under the agreement can be used for an aircraft with a capacity of fewer than 19 passenger seats, the parties are required to provide this assistance.

(iv) A carrier may apply to the Department of Transportation for a waiver of the requirement to provide boarding assistance for an aircraft or aircraft model with a capacity of 19–30 passenger seats. The basis for the grant of such a waiver is a showing that use of the only device or devices that could be used to provide boarding assistance on that aircraft or aircraft model would present an unacceptable risk of significant damage to the aircraft.

5. In § 382.51 of 14 CFR part 382, paragraph (b) is revised to read as follows:

§ 382.51 Communicable diseases.

* * * * *

(b)(1) The carrier may take the actions listed in paragraph (a) of this section with respect to an individual who has a communicable disease or infection only if all of the following conditions are met:

(i) The disease or infection is one that, at the time the individual would travel, is readily communicable to other persons, in the normal course of flight, through airborne transmission of disease organisms or casual contact;

(ii) The disease or infection is one that is likely to have significant health consequences for an individual who becomes infected; and

(iii)(A) The carrier's action is based upon the recommendation of a physician and pertains to the specific passenger and circumstances involved; or

(B) The carrier's action is based on a list of diseases meeting the criteria of paragraphs (b)(1) (i) and (ii) of this section that has been established by the carrier's medical staff (or by carrier officials in conjunction with a consulting physician). The list shall specify the time periods during which each disease meets the criteria of paragraph (b)(1)(i) of this section. If the passenger denies that he or she has a disease on the list, or that it is not at a stage that the list describes as meeting the criteria of paragraph (b)(1)(i) of this section, any action by the carrier to restrict the passenger's travel shall be based upon the recommendation of a physician and pertains to the specific passenger and circumstances involved.

(2) In taking actions authorized under this paragraph, carriers shall select the alternative, consistent with the recommendation of the physician involved, that is least restrictive from the point of view of the passenger.

(3) If an action authorized under this paragraph results in the postponement of a passenger's travel, the carrier shall permit the passenger to travel at a later time at the fare that would have applied to the passenger's originally scheduled trip.

(4) Upon the passenger's request, the carrier shall provide to the passenger a written explanation of any action taken under this paragraph within 10 days of the action. The explanation shall include a signed statement by the physician of his or her recommendation and the reasons for it.

49 CFR Subtitle A—Office of the Secretary of Transportation

PART 27—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

6. The authority citation for 49 CFR Part 27 is revised to read as follows:

Authority: Sec. 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); sec. 16 (a) and (d) of the Federal Transit Act of 1964, as amended (49 U.S.C. 1612 (a) and (d)); sec. 165(b) of the Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142 nt.).

PART 27—[AMENDED]

7. In 49 CFR part 27, the word "handicap" is changed to the word "disability" wherever it occurs. The term "handicapped individual(s)" is changed to "individual(s) with disabilities" wherever it occurs. The term "qualified handicapped individual(s)" is changed to "qualified individual(s) with disabilities" wherever it occurs.

8. In § 27.5 of 49 CFR part 27, the definition of "Air Carrier Airport" is removed, and a new definition of "Commercial service airport" is added in the appropriate alphabetical placement, to read as follows:

§ 27.5 Definitions.

* * * * *

"Commercial service airport" means an airport that is defined as a commercial service airport for purposes of the Federal Aviation Administration's Airport Improvement Program and that enplanes annually 2500 or more passengers and receives scheduled passenger service of aircraft.

* * * * *

9. Section 27.71 of 49 CFR part 27 is revised to read as follows:

§ 27.71 Airport facilities.

(a) This section applies to all terminal facilities and services owned, leased, or operated on any basis by a recipient of DOT financial assistance at a commercial service airport.

(b) Airport operators shall ensure that the terminal facilities and services subject to this section shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Airport operators shall be deemed to comply with this section 504 obligation if they meet requirements applying to state and local government programs and facilities under Department of Justice (DOJ) regulations implementing Title II of the Americans with Disabilities Act (ADA) at 28 CFR part 35.

(c) In addition to requirements specified in DOJ ADA regulations, terminal facilities and services covered by this section shall provide the following accessibility features:

(1) The basic terminal design shall permit efficient entrance and movement of individuals with disabilities while at the same time giving consideration to their comfort, convenience, and safety. The design, especially concerning the location of means of vertical access, shall minimize any extra distance that individuals with disabilities must travel, compared to other persons, to reach ticket counters, waiting areas, baggage handling areas, and boarding locations.

(2) The airport operator shall ensure that all portions of a passenger's path between the entrance to the facility (including parking and public transportation as well as the entrance to terminal buildings) and the aircraft that are under the control of the airport operator are program accessible to passengers with disabilities, including individuals who use wheelchairs.

(3) The ticketing system shall provide individuals with disabilities with the opportunity to use the primary fare collection area to obtain a ticket and pay the fare.

(4) Outbound and inbound baggage facilities shall allow efficient baggage handling by individuals with disabilities. Passenger baggage facilities shall be designed and operated without unattended physical barriers, such as gates, that are inaccessible for individuals with disabilities.

(5) Each terminal shall contain at least one TDD to enable persons with hearing impairments to make phone calls from the terminal. The TDD(s) shall be placed in a clearly marked, readily accessible location, and airport signage shall clearly indicate the location of the TDD(s).

(6) Terminal information systems shall take into consideration the needs of individuals with disabilities,. The primary information mode shall be visual words or letters, or symbols, using lighting and color coding. Terminals shall also have facilities for providing information aurally.

(d) Systems of inter-terminal transportation, including, but not limited to, shuttle vehicles and people movers, shall comply with applicable requirements of the Department of Transportation's ADA rules at 49 CFR parts 37 and 38.

(e) Contracts or leases between carriers and airport operators concerning the use of airport facilities shall set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by this part and applicable Air Carrier Access Act (ACAA) and ADA rules of the Department of Transportation at 49 CFR part 37 and Department of Justice at 28 CFR part 35.

(f) Each airport operator at a commercial service airport served by one or more air carrier's aircraft which passengers cannot enter or leave using accessible level entry boarding

platforms or mobile lounges shall ensure that ramps, mechanical lifts, or other suitable devices (not normally used for freight) are available for the boarding of individuals with disabilities. The airport operator shall ensure the use of these devices to provide boarding assistance to individuals who need this assistance.

(1) Each such airport operator shall negotiate in good faith with each air carrier conducting operations at the airport using aircraft which passengers cannot enter or leave using accessible level entry boarding platforms or mobile lounges, concerning the acquisition and use of boarding assistance devices. The carrier(s) and the airport operator shall, by [a date no later than nine months from the effective date of this section], sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. This document shall be retained by each party to it and made available, on request, to representatives of the Department of Transportation.

(2) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed no later than [a date three years from the effective date of this section]. All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(3) The agreement is not required to provide for the use of boarding devices or boarding assistance concerning aircraft with a capacity of fewer than 19 passenger seats. However, if boarding devices or boarding assistance provided under the agreement can be used for an aircraft with a capacity of fewer than 19 passenger seats, the parties are required to provide this assistance, provided that a means of deplaning the passenger is available at the passenger's destination.

(g) If an airport operator who receives Federal financial assistance for an existing airport facility has not already done so, the recipient shall submit a transition plan meeting the requirements of § 27.65(d) of this part to the FAA no later than [a date 90 days from the effective date of this section].

10. A new § 27.77 is added to 49 CFR part 27, subpart B, to read as follows:

§ 27.77 Recipients of essential air service subsidies.

Any air carrier receiving Federal financial assistance from the Department of Transportation under the Essential Air Service program shall, as a condition of receiving such assistance, comply with applicable requirements of this part and ACAA rules of the Department of Transportation at 14 CFR part 382.

[FR Doc. 93-22124 Filed 9-8-93; 8:45 am]
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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928

[Docket No. H-022I]

RIN 1218-AB42

Retention of Markings and Placards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: OSHA is hereby proposing a requirement for employers who receive packages, containers, motor vehicles, rail freight cars, aircraft or vessels which contain hazardous materials and which are required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act, to retain the markings, placards, and labels, and any other information as may be required by such regulations on the packages, containers, motor vehicles, rail freight cars, aircraft or vessels until the hazardous materials have been removed therefrom. This rule is proposed pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (the Act) and in accordance with section 29 of Public Law 101-615, the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA).

DATES: Written comments on the issues discussed in this notice and requests for informal public hearings must be postmarked by October 12, 1993.

ADDRESSES: Comments and hearing requests must be submitted in quadruplicate to the Docket Officer, Docket No. H-022I, Occupational Safety and Health Administration, room N-2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 219-7894, where they will be available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA Office of Public Affairs, room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219-8151.

SUPPLEMENTARY INFORMATION: Public Law 101-615, the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), 104 Stat. 3244, was enacted by Congress on November 17, 1990. Section 29 of HMTUSA reads as follows:

> Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.

The rule being proposed today is being issued in accordance with the requirements of HMTUSA.

OSHA believes that this rule will impose no significant compliance burdens on industry. It requires only that when hazardous materials are transported in packagings or vehicles which are already required by the Department of Transportation to be marked, placarded, or labeled, and such packagings or vehicles are received by an employer, that employer must assure that the markings, placards, and labels, and any other information required by the DOT regulations to be displayed on the packagings or vehicles, remain thereon until the hazardous materials have been removed so that they no longer pose a health or safety risk.

The Congressional rationale for this requirement was provided in Senate Report No. 101-449, (p. 16), as follows:

> In November 1988, six Kansas City firemen were killed when the arson-caused fire they were fighting caused the violent explosion of an unmarked truck-trailer parked at a highway construction site. Because the trailer's hazardous materials placards had been removed, the firemen were unaware of the danger it posed. The Secretaries of Labor Transportation and the Treasury should cooperate in order to ensure that placards and labels required on hazardous materials and explosives, both in transportation and at stationary facilities, be retained until such materials have been removed to the extent that they no longer pose a safety risk.

Congress was specific in its mandate to OSHA for this rule, and the rule itself is limited to implementing the Congressional mandate. In this proposal, OSHA has slightly elaborated on the statutory language to the extent necessary to ensure that its requirements are clear. This regulation is essentially a continuation of the DOT

regulations, so employers may wish to consult those regulations, which are codified at 49 CFR parts 171–180, in regard to complying with this section.

While OSHA does not believe that these provisions require further elaboration, comments and information are invited on the following issues. Any comments received will be considered before issuing the final standard on the retention of markings and placards.

(1) OSHA believes that the proposed standard would have only a minimal cost impact on affected employers and that such costs would be associated with the replacement of placards and labels that have been damaged or lost. OSHA specifically requests information from employers who have had experience with lost or damaged DOT placards and labels to assess more fully the associated costs.

(a) How frequently do incidents of lost or damaged placards and labels occur?

(b) In your experience, when DOT placards and labels have required replacement what have been the associated costs?

(c) How much time is required to replace placards and labels?

(d) What are the unit prices for placards and labels?

(2) The length of time that a container, motor vehicle, rail freight car, aircraft, vessel or similar receptacle which contains hazardous materials remains on a worksite obviously varies. Please describe the average length of time that such containers may be present at your worksite.

(3) The proposed standard requires that DOT placards and labels remain on containers of hazardous materials until the material has been removed so that it no longer poses a safety or health risk.

(a) What problems, if any, may be encountered in achieving this requirement?

(b) If problems may arise, what alternative solutions would you recommend?

(c) What measures do employers take to assure that placards and labels remain on containers of hazardous materials?

(4) Have you had incidences of injury or illness that have resulted from workers handling unlabelled vehicles, containers, etc., covered by the proposed rule?

In addition to the issues addressed above, OSHA invites comments on any other concerns that may be pertinent to this proposed regulation.

Because Congress has directed that OSHA issue this regulation for all employers covered by the OSH Act, this notice includes separate but identical standards for general industry (§ 1910.1201), construction (§ 1926.60), shipyards (§ 1915.100), marine terminals (§ 1917.29), and longshoring (§ 1918.100). The general industry standard will also be added to the list of Part 1910 standards which apply to agricultural operations, as a new paragraph (a)(7) of § 1928.21.

In preparing this proposed rule, OSHA has consulted with delegated officials of the Secretary of Transportation and the Secretary of the Treasury, as required by HMTUSA.

A 30-day comment period is being provided for those who wish to comment on the issues raised in this notice. In addition, pursuant to section 6(b)(3) of the Act, any interested person, on or before the last day of the period provided for the submission of written comments, may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. In accordance with 29 CFR 1911.11, any objections submitted must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

Regulatory Flexibility Act

OSHA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Orders 12291, 12612 and 12778

This rule is not a major rule for the purposes of Executive Order 12291. It also does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. This rule has been certified in accordance with Executive Order 12778 regarding Civil Justice Reform.

Paperwork Reduction Act

This rulemaking action imposes no recordkeeping or other paperwork burdens under the Paperwork Reduction Act.

List of Index Terms

Occupational safety and health, hazardous materials transportation, hazardous substances, explosives, chemicals, health, safety.

This document was prepared under the direction of David C. Zeigler, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210.

Accordingly, pursuant to section 29 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101–615, 104 Stat. 3277), sections 4 and 6(b) of the Occupational Safety and Health Act (29 U.S.C. 653, 655), Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Sec. 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR part 1911, parts 1910, 1915, 1917, 1918, 1926, and 1928 of 29 CFR are proposed to be amended as set forth below.

Signed this 2nd day of September, 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor.

OSHA is proposing to amend Parts 1910, 1915, 1917, 1918, 1926, and 1928 of Title 29 of the Code of Federal Regulations as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

PART 1917—MARINE TERMINALS

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

PART 1910—[AMENDED]

1. The authority citation for subpart Z of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, and 8, Occupational Safety and Health Act, 29 U.S.C. 653, 655, and 657; Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z–1–A, which have identical limits listed in the Transitional Limits columns of Table Z–1–A, Table Z–2 or Table Z–3. The latter were issued under Section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z–1–A, Table Z–2, and Table Z–3 also issued under 5 U.S.C. 533. Section 1910.1000, the Transitional Limits columns of Table Z–1–A, Table Z–2 and Table Z–3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

Section 1910.1001 also issued under Sec. 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

Section 1910.1025 also issued under 5 U.S.C. 553.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Section 1910.1201 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3244 (49 U.S.C. 1801–1819 and 5 U.S.C. 553).

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

PART 1915—[AMENDED]

2. The authority citation for part 1915 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033) as applicable; and 29 CFR part 1911.

Section 1915.99 also issued under 5 U.S.C. 553.

Section 1915.100 also issued under Section 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101–615, 104 Stat. 3244 (49 U.S.C. 1801–1819 and 5 U.S.C. 553).

PART 1917—[AMENDED]

3. The authority citation for part 1917 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033) as applicable; 29 CFR Part 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.129 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990, Public Law 101–615, 104 Stat. 3244 (49 U.S.C. 1801–1819 and 5 U.S.C. 553).

PART 1918—[AMENDED]

4. The authority citation for part 1918 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033) as applicable.

Section 1918.90 also issued under 5 U.S.C. 553 and 29 CFR part 1911.

Section 1918.100 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101–615, 104 Stat. 3244 (49 U.S.C. 1801–1819, 5 U.S.C. 553, and 29 U.S.C. part 1911).

PART 1926—[AMENDED]

5. The authority citation for subpart D of part 1926 is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033) as applicable.

Section 1926.59 also issued under 5 U.S.C. 553 and 29 CFR Part 1911.

Section 1926.60 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. 101–615, 104 Stat. 3277), 5 U.S.C. 553, and 29 U.S.C. Part 1911.

PARTS 1910, 1915, 1917, 1918, AND 1926—[AMENDED]

6. Parts 1910, 1915, subpart F; 1917, subpart B; 1918, subpart I and 1926, subpart D of Title 29 of the Code of Federal Regulations are amended by adding identical sections as §§ 1910.1201, 1915.100, 1917.29, 1918.100 and 1926.60 to read as follows:

§ **.*** Retention of markings and placards.**

(a) Any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act, codified at 49 CFR parts 171 through 180, shall retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, vessel, or similar receptacle in accordance with the following:

(1) Such markings, placards and labels shall be retained on the package, container, motor vehicle, rail freight car, aircraft, vessel, or similar receptacle until the hazardous materials have been removed therefrom so that they no longer pose a health or safety risk.

(2) Such markings, placards and labels shall be maintained in a manner that ensures that the legend is readily visible.

(b) For the purposes of this section, the term "hazardous material" has the same definition as in the Hazardous Materials Regulations of the U.S. Department of Transportation at 49 CFR 171.8.

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

7. The authority citation for Part 1928 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Section 1928.21 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3244 (49 U.S.C. 1801–1819 and 5 U.S.C. 553).

PART 1928—[AMENDED]

8. Section 1928.21 is proposed to be amended by adding a new paragraph (a)(7) to the list of part 1910 standards applicable to agriculture as follows:

§ 1928.21 Applicable standards in 29 CFR Part 1910.

(a) * * *

(7) Retention of markings and placards —§ 1910.1201.

* * * * *

[FR Doc. 93–21869 Filed 9–9–93; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN–0720–AA18

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospice Care

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Civilian Health and Medical Program of the Uniformed Services. The proposed amendment establishes a hospice benefit for the terminally ill that offers an alternative to traditional therapeutic treatment which may no longer be appropriate or desirable. Hospice care is palliative rather than curative, generally emphasizing home care rather than institutional care, and treating the social, psychological, spiritual, and physical needs of the entire family.

DATES: Written public comments must be received on or before October 12, 1993.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, Program Development Branch, OCHAMPUS, Aurora, Colorado 80045–6900, telephone (303) 361–1094.

SUPPLEMENTARY INFORMATION: The Defense Authorization Act for FY 1992–93, Public Law 102–190, directs CHAMPUS to provide hospice care in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C.

1395x(dd)). This section of the Social Security Act sets forth coverage/benefit guidelines, along with certification criteria for participation in a hospice program. Since it is Congress' specific intent to establish a benefit identical to that of Medicare, CHAMPUS will adopt the provisions currently set out in Medicare's hospice coverage/benefit guidelines, reimbursement methodologies (including national hospice rates and wage indices), and certification criteria for participation in the hospice program (42 CFR part 418, Hospice Care).

The CHAMPUS hospice benefit is designed to provide palliative care to individuals with prognoses of less than 6 months to live. The benefit is based upon a patient and family-centered model where the views of the patient and family or friends figure predominantly in the care decisions. This type of care emphasizes supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. This benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

Coverage/Benefits

CHAMPUS beneficiaries who are terminally ill (that is, a life expectancy of six months or less) will be eligible for the following services and supplies in lieu of other CHAMPUS benefits: (1) Physicians' services; (2) nursing care provided by or under the supervision of a registered professional nurse; (3) medical social services provided by a social worker who is working under the direction of a physician; (4) counseling services provided to the terminally ill individual and the family members or other persons caring for the individual at home; (5) short-term inpatient care (both general and respite); (6) medical supplies, including drugs and biologicals; (7) durable medical equipment, as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness and provided for use in the patient's home; (8) home health aide services furnished by qualified aides and homemakers services; and (9) physical therapy, occupational therapy and speech-language pathology services.

The hospice must be capable of providing core services on a 24-hour basis. This consists of physician services, nursing care, medical social services, and counseling services for individuals and care givers. While non-core services (i.e., short-term inpatient care, medical supplies and equipment, etc.) may be provided under arrangements with other agencies or organizations, the hospice must maintain professional management of the patient at all times.

Twenty-four-hour nursing and home health aide services may be provided only during periods of crisis and then only as necessary to maintain the terminally ill individual at home. A period of crisis is defined as the time a patient requires continuous care to achieve palliation or management of acute medical symptoms. Those services which are not necessary for the palliation or management of the terminal illness are excluded from CHAMPUS coverage.

Short-term inpatient care, both general and respite care, may be provided in participating hospice inpatient units, hospitals, or skilled nursing facilities (SNFs). Inpatient respite care is provided when necessary to relieve family members or other persons caring for the individual at home. Respite care may be provided only on an occasional basis and is limited to no more than five consecutive days at a time. The necessity and frequency of this care will be determined by the beneficiary's treatment team with input from his or her attending physician and the hospice's medical director. The care also will be subject to medical review by the CHAMPUS medical peer review contractor. Inpatient respite care is the only type of care that can be provided in a Medicaid (title XIX) certified nursing facility.

Counseling services are provided for the purpose of training the terminally ill patient's family or other care-giver to provide care and to help the patient and those caring for him or her to adjust to the individual's approaching death. While bereavement counseling/therapy is required as part of the overall CHAMPUS hospice benefit, it is not reimbursable under CHAMPUS. The specific exclusions of custodial care and personal comfort items applicable to other CHAMPUS services is not applicable to hospice care.

Conditions for Coverage

Under the hospice benefit, patients with a life expectancy of six months or less may receive four episodes of care: Two 90-day periods, one 30-day period and a final period of unlimited duration (a subsequent extension period). These episodes of care must be used consecutively; that is, the two 90-day election periods must be used before the 30-day period, and the 30-day period must be used before the final period of care. Hospice coverage will continue as long as the beneficiary is certified as terminally ill and has not revoked his or her final election period.

Each hospice will design and print its own election statement to include the following information: (1) Identification of the particular hospice that will provide care to the individual; (2) the individual's or representative's acknowledgment that he or she has been given a full understanding of hospice care; (3) the individual's or representative's acknowledgment that he or she understands that certain CHAMPUS services are waived by the election; (4) the effective date of the election; and (5) the signature of the individual or representative. The hospice must notify the CHAMPUS contractor of the initiation, change or revocation of any election.

A beneficiary's terminal illness must be certified in the medical record by the beneficiary's attending physician (if the patient has an attending physician) and/or the medical director of the hospice program providing the care, or by a physician member of the hospice interdisciplinary team. This certification must be made no later than two days after the hospice care is initiated. If a subsequent period of hospice care is elected, the medical director or a staff physician of the hospice must recertify at the beginning of that period that the individual is terminally ill. The beneficiary must file an election statement with a particular hospice in order to obtain coverage. In doing so, the beneficiary waives all rights to CHAMPUS payments for the duration of the election period for: (1) Care provided by hospice programs other than the one chosen unless provided under arrangements made by the elected hospice; and (2) other CHAMPUS basic program services/benefits related to the terminal illness, except for services of an attending physician who is not employed by or under contract with the hospice program. However, any covered CHAMPUS services not related to the treatment of the terminal condition for which hospice care was elected, which are provided during a hospice election period may be billed to the CHAMPUS contractor for nonhospice CHAMPUS reimbursement.

Patients may revoke a hospice election, but in doing so, they forfeit the remaining days in the election period and resume CHAMPUS coverage of the benefits waived under that election. For example, a patient may elect to receive services under the second 90-day period after completing the first election period, and then after 60 days of that care, decide to revoke the election. The

remaining days (30 days) of the election period would be forfeited. However, the patient could at any time elect to receive coverage for any other hospice election period for which he or she was eligible. In this particular case, it would be the next 30-day period. Hospice payment/coverage ends upon revocation of the final election period. Patients may also change from one hospice program to another once during each of their election periods. The change is accomplished by submitting a signed statement addressed both to the hospice from which the patient received care and to the newly designated hospice. The statement shall include the following information: (1) The name of the hospice from which the individual has received care; (2) the name of the hospice from which the patient plans to receive the care; and (3) the date the change is to be effective.

A written plan of care must be established and periodically reviewed by the beneficiary's attending physician or the hospice's medical director and his/her staff. Hospice care must be provided pursuant to this established plan of care.

The CHAMPUS medical peer review contractor will request and review medical records, including written plans of care, to make sure that the services were: (1) Covered hospice services; (2) stipulated in the written plan of care; (3) necessary for the application or management of the beneficiary's terminal illness; and (4) appropriately classified for payment. Complete medical records and all supporting documentation must be submitted to the CHAMPUS medical peer review contractor within 30 days of the date of its request. If records are not received within the designated time frame, authorization of the hospice benefit will be denied and any prior payments made will be recouped. A denial issued for this reason is not an initial determination under § 199.10 of this part, and is not appealable.

Certification

Hospice programs must be Medicare certified in order to receive reimbursement under CHAMPUS. The hospice program can be either a public agency or a private organization which provides those services described under the coverage section above on a 24-hour basis, and which also provides bereavement counseling for the immediate family of the terminally ill individual. The program must be able to provide these services in the patient's home, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the agency or organization. However, the hospice program must maintain professional management responsibility for all such services furnished to the individual, regardless of the location or facility in which such services are rendered.

The hospice must enter into an agreement with CHAMPUS to be qualified to participate and to be eligible for payment under the program. This agreement will be patterned after the Medicare hospice participation agreement and will be available from the CHAMPUS contractors to any Medicare approved hospice wishing to participate under the CHAMPUS hospice program.

Reimbursement

CHAMPUS will use national Medicare hospice rates for reimbursement of each of the following levels of care provided by or under arrangement with a Medicare approved hospice program: (1) Routine home care; (2) continuous home care; (3) inpatient respite care; (4) general inpatient care. The hospice will be paid a daily rate for the above levels of care, with the exception of continuous home care which will be reimbursed on an hourly rate. The rates are based on a cost-related prospective payment method subject to a "cap" amount and will be adjusted annually by the Medicare hospital market basket inflation factor for services rendered on or after October 1 of each fiscal year. Table I represents the national Medicare rates for hospice services provided on or after October 1, 1992, through September 30, 1993, along with the wage and nonwage components of each:

TABLE I

	National rate	Wage component	Nonwage component
Routine Home Care	$86.66	$59.54	$27.12
Continuous Home Care	505.80	347.54	158.26
Inpatient Respite	89.64	48.52	41.12
General Inpatient	385.52	246.77	138.75

These national payment rates will be adjusted for regional wage differences by using appropriate area wage indices. The hospice will be reimbursed for an amount applicable to the type and intensity of the services furnished to the beneficiary on a particular day.

One rate will be paid for each level of care, except for continuous home care where reimbursement is based on the number of hours of continuous care furnished to the beneficiary on that day. More than half of the period of continuous care must be provided by either a registered or licensed practical nurse. A minimum of 8 hours must be provided during a 24-hour day which begins and ends at midnight. The care need not be continuous; that is, four hours could be provided in the morning and another four hours in the evening. Homemaker and aide services may be provided to supplement the nursing care to enable the individual to remain at home. Table II provides an example of CHAMPUS reimbursement for 10 hours of continuous home care provided in Denver, Colorado:

TABLE II

National Rate	Wage Component Subject to Index	×	Index for Denver	=	Adjusted Wage Component
$505.80	$347.54	×	1.2141	=	$421.95

Adjusted Wage Component	+	Nonwage Component	÷	24 Hour Day	×	Hours of Care	=	Hospice Rate

$$\frac{(\$421.95 + \$158.26)}{24\text{ hr}} \times 10 = \$241.75$$

The continuous home care rate of $241.75 was figured by dividing the adjusted rate (i.e., the adjusted wage component plus nonwage component) by 24 hours and multiplying that amount by the actual number of hours rendered.

Payment for inpatient respite care may be made for a maximum of 5 days at a time, including the date of admission but not counting the date of discharge. Payment for the sixth and any subsequent days is to be made at the routine home care rate. Table III provides an example of CHAMPUS reimbursement for 12 days of inpatient respite care in Cheyenne, Wyoming:

TABLE III

Respite Rate (5 days)

Wage Component Subject to Index	×	Index for Cheyenne	=	Adjusted Wage Component
$48.52	×	.9565	=	$46.41

Adjusted Wage Component	+	Nonwage Component	=	Adjusted Rate	×	5 days Maximum	=	Respite Rate
$46.41	+	$41.12	=	$87.53	×	5	=	$437.65

Routine Home Care Rate (7 days)

Wage Component Subject to Index	×	Index for Cheyenne	=	Adjusted Wage Component
$59.54	×	.9565	=	$56.95

Adjusted Wage Component	+	Nonwage Component	=	Adjusted Rate	×	7 days Home Care	=	Routine Rate
$56.95	+	$27.12	=	$84.07	×	7	=	$588.49

CHAMPUS Payment for Respite Care

Respite Rate for 5 days	+	Routine Home Care Rate for 7 days	=	Payment for 12 days of Respite Care
$437.65	+	$588.49	=	$1,026.14

Since respite care is limited to a maximum of 5 days, the remaining 7 days were figured using the routine home care rate. The payment amounts for both respite and routine home care were combined to establish a payment amount for the 12 days of inpatient care.

Payment for physicians' administrative and general supervisory activities are included in the national payment rate. This involves the establishment, review and updating of plans of care, supervising care and services, and establishing governing policies. These services are generally performed by the hospice's medical director and the physician member of the treatment team.

Payment for physicians' direct patient care services (i.e., physicians employed by or under contract with a hospice program) may be paid in addition to the adjusted national rate for that particular level of care. The hospice will be reimbursed in accordance with CHAMPUS' allowable charge methodology. However, these physician payments will be counted toward the hospice cap limitation.

Patient care services rendered by an independent attending physician (a physician who is not employed by or under contract with the hospice) are not part of the hospice benefit. The provider may bill in his/her own right, and the services are subject to the CHAMPUS allowable charge methodology. This reimbursement is not counted toward the cap limitation. Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians. The hospice must notify the CHAMPUS contractor of the name of the physician who has been designated as the attending physician whenever the attending physician is not a hospice employee.

No payment may be made for physician services furnished voluntarily (both physicians employed by and under contract with the hospice and independent attending physicians). The physician rendering such services may not discriminate against CHAMPUS beneficiaries; e.g., designate all or a majority of services rendered to non-CHAMPUS patients as volunteer and at the same time bill for CHAMPUS patients.

Each hospice program will be subject to a cap on aggregate CHAMPUS payments from November 1 through October 31 of each year, hereafter known as "the cap period." CHAMPUS will use the annual Medicare statutory amount in calculation of each of the hospice's aggregate cap limitations. The Medicare cap amount for the period November 1, 1992, through October 31, 1993, is $11,551. Annual adjustments to the cap amount will be the same as Medicare. The aggregate cap amount (statutory Medicare cap amount times the number of CHAMPUS beneficiaries electing hospice care during cap period) will be compared with total (actual) CHAMPUS payments made during the same period. Payments in excess of the aggregate cap amount must be refunded by the hospice program. The adjusted statutory Medicare cap amount will be obtained from Medicare (Health Care Financing Administration (HCFA)) prior to the end of each cap period. Computation and application of the "cap amount" will be made by the CHAMPUS contractors at the end of each cap period.

Calculation of the cap amount for a hospice which has not participated in the program for an entire cap year (November 1 through October 31) will be based on a period of least 12 months but no more than 24 months. For example, the first cap period for a hospice entering the program after November 1, 1993, but before November 1, 1994, would end October 31, 1995.

Payments for inpatient hospice care are also subject to a limitation on the number of days of inpatient care furnished to a CHAMPUS patient. During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days (both for general inpatient care and inpatient respite care) may not exceed 20 percent of the aggregate total number of days of hospice care provided to all CHAMPUS beneficiaries during the same period. Computation and application of the limit will be made by the CHAMPUS contractors at the end of each cap period. Any excess reimbursement must be refunded by the hospice.

The hospice is responsible for reporting the following data within 30 days after the end of the cap period: (1) The total number of inpatient days furnished to CHAMPUS hospice patients (both general inpatient and inpatient respite days); (2) the total number of days of CHAMPUS hospice care (both inpatient and home care); and (3) the total number of CHAMPUS beneficiaries electing hospice care. When a beneficiary elects to receive hospice benefits from two or more different hospices, there will be a proportional application of the cap amount.

A hospice dissatisfied with the contractor's calculation and application of its cap amount and/or inpatient limitation may request and obtain a contractor review if the amount of program reimbursement in controversy—with respect to the matter which the hospice has a right to review—is at least $1000. The administrative review by the CHAMPUS contractor of the calculation and application of the cap amount and/or the inpatient limitation is the only

administrative review available. These calculations are not subject to the appeal procedures set forth in § 199.10 of this part. In addition, the methods and standards for calculation of the hospice payment rates established by CHAMPUS, as well as questions as to the validity of the applicable law, regulation or CHAMPUS decisions, are not subject to administrative review, including the appeal procedures of § 199.10 of this part.

There are no deductibles under the hospice benefit. CHAMPUS pays the full cost of all covered services for the terminal illness, except for small cost-share amounts for outpatient drugs and inpatient respite care. The patient is responsible for 5 percent of the cost of outpatient drugs or $5 toward each prescription, whichever is less. Additionally, the cost of the prescription (drugs or biologicals) may not exceed what a prudent buyer (that is, a buyer who refuses to pay more than the going price for an item or service and also seeks to economize by minimizing costs) would pay in similar circumstances. For inpatient respite care, the patient pays 5 percent of the CHAMPUS-allowed rate (approximately $4.31 per day); i.e., 5 percent of the amount CHAMPUS has estimated to be the cost of respite care, after adjusting the national rate for local wage differences. The rate varies slightly depending on the geographic area of the country. Table IV provides an example of the calculation of the cost-share for respite care in Denver, Colorado:

TABLE IV

Wage Component Subject to Index	×	Index for Denver	=	Adjusted Wage Component
$48.52	×	1.2141	=	$58.91

Adjusted Wage Component	+	Nonwage Component	=	Adjusted Rate
$55.98	+	39.50	=	$95.48

Adjusted Rate	÷	.95 (Rate to Include Cost - Share)	×	% Cost - Share	=	Cost - Share Amount
95.48	÷	.95	×	.05	=	$5.03

The total amount of cost-share for inpatient respite care for any beneficiary during a hospice cost-share period may not exceed the amount of the inpatient Medicare hospital deductible applicable for the year in which the hospice cost-share period began.

Hospice care is viewed as the most cost-effective form of treatment for the terminally ill. The benefit lowers costs by reducing or eliminating inpatient days, unnecessary tests, and expensive curative therapies. The national rate system is designed to reimburse the hospice for the costs of all covered services related to the treatment of the beneficiary's terminal illness, including the administrative and general supervisory activities performed by physicians who are employees of or working under arrangements made with the hospice. Establishment of treatment plans, supervision of care and services and periodic review and updating of plans are included in the reimbursement rates.

The beneficiary is required to waive all other CHAMPUS benefits when electing hospice care since continued receipt of nonhospice services, whose purpose is to effect a cure, would be inappropriate for beneficiaries selecting hospice care and inconsistent with the intention that the hospice benefit should be a substitute for, not an addition to, coverage of intensive curative care under the basic CHAMPUS benefit.

Appeal rights subsequent to a review decision by a medical peer review contractor differ from those made by a CHAMPUS contractor. 32 CFR 199.15 governs appeal rights for peer review. Beneficiaries are entitled to a reconsideration and, if the denial is upheld and the amount in controversy is $300 or more, a hearing at OCHAMPUS. Providers, however, are only entitled to a reconsideration for denials based on medical necessity and/or appropriateness of the care setting. Conversely, when a CHAMPUS contractor denies a claim, both beneficiary and provider are entitled to a (1) reconsideration; (2) formal review if the amount in controversy is $50; and (3) a hearing if the amount in controversy is $300. Denials for medical necessity are the responsibility of the medical peer review contractor, while coverage denials are the CHAMPUS contractor's responsibility.

Regulatory Procedures

Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would result in an annual effect on the national economy of $100 million or more, or which would have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public

comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This proposed rule is not a major rule under Executive Order 12291. The changes set forth in this proposed rule are major revisions to existing regulation. The changes made in this proposed rule involved an expansion of CHAMPUS benefits. In addition, this proposed rule will have minor impact and will not significantly affect a substantial number of small entities. In light of the above, no regulatory impact analysis is required.

We certify that this proposed rule has been reviewed under the provisions of the October 23, 1991, Executive Order on Civil Justice Reform. This proposed rule meets all applicable standards provided in that executive order.

This rule does impose minimal information collection requirements to include the following: (1) Total number of inpatient hospice days; (2) total number hospice days (both inpatient and home care); and (3) total number of beneficiaries electing hospice care.

The fact that all CHAMPUS approved hospice programs are subject to Medicare reporting requirements (i.e., they must be Medicare certified in order to receive CHAMPUS reimbursement), will tend to minimize the administrative burden imposed by this rule. The hospice will already have an established data collection system in place for developing these annual reports. Overall, resource allocation (administrative time) will be minimal since the number of CHAMPUS hospice beneficiaries would be disproportionately low compared to the number of Medicare patients. In other words, since the facility already has to collect, arrange, and submit the data on a majority of its patients, the administrative costs and/or burden of reporting CHAMPUS hospice patients could be minimal. The hospice would have to expand only the data collection parameters (data on CHAMPUS beneficiaries) in order to meet the requirements under this rule.

The rule represents an expansion of benefits under the CHAMPUS program, resulting in certification of a new provider category (hospice). Although hospice programs are accustomed to the proposed reporting requirements and would not view this as an administrative intrusion, the proposed rule has been prepared for review by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR part 199, is proposed to be amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, and 5 U.S.C. 301.

2. Section 199.2(b) is amended by adding a definition for "hospice care" in alphabetical order as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Hospice care. Hospice care is a program which provides an integrated set of services and supplies designed to care for the terminally ill. This type of care emphasizes supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. The benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

* * * * *

3. Section 199.4 is proposed to be amended by adding new paragraph (e)(19).

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(19) *Hospice care.* Hospice care is a program which provides an integrated set of services and supplies designed to care for the terminally ill. This type of care emphasizes supportive services, such as pain control and home care, rather than cure-oriented services provided in institutions that are otherwise the primary focus under CHAMPUS. The benefit provides coverage for a humane and sensible approach to care during the last days of life for some terminally ill patients.

(i) *Benefit coverage.* CHAMPUS beneficiaries who are terminally ill (that is, a life expectancy of six months or less) will be eligible for the following services and supplies in lieu of most other CHAMPUS benefits:

(A) Physician services.

(B) Nursing care provided by or under the supervision of a registered professional nurse.

(C) Medical social services provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

(D) Counseling services provided to the terminally ill individual and the family member or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other care-giver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Bereavement counseling, which consists of counseling services provided to the individual's family after the individual's death, is a required hospice service but it is not reimbursable.

(E) Home health aide services furnished by qualified aides and homemaker services. Home health aides may provide personal care services. Aides also may perform household services to maintain a safe and sanitary environment in areas of the home used by the patient. Examples of such services are changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Aide services must be provided under the general supervision of a registered nurse. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care.

(F) Medical appliances and supplies, including drugs and biological. Only drugs that are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered. Appliances may include covered durable medical equipment, as well as other self-help and personal comfort items related to the palliation or management of the patient's condition while he or she is under hospice care. Medical supplies include those that are part of the written plan of care.

(G) Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

(H) Short-term inpatient care provided in a participating hospice inpatient unit, or a participating hospital, skilled nursing facility (SNF) or nursing home that additionally meets the special hospice standards regarding staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. Inpatient care may be required for procedures necessary for pain control or

acute or chronic symptom management. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care is the only type of inpatient care that may be provided in a nursing home.

Note: The limitations on custodial care and personal comfort items applicable to other CHAMPUS services are not applicable to hospice care.

(ii) The hospice must be capable of providing core services on a 24-hour basis; i.e., physician services, nursing care, medical social services for individuals and care givers. Refer to paragraphs (e)(19)(i)(A), (e)(19)(i)(B), and (e)(19)(i)(C) of this section.

(iii) While non-core services (i.e., counseling services, home health aid services, medical appliances and supplies, physical therapy, occupational therapy, speech-language pathology and short-term inpatient care) may be provided under arrangements with other agencies or organizations, the hospice must maintain professional management of the patient at all times. Refer to paragraphs (e)(19)(i)(D), (e)(19)(i)(E), (e)(19)(i)(F), (e)(19)(i)(G), and (e)(19)(i)(H) of this section.

(iv) Hospice care is divided into distinct periods/episodes of care. The terminally ill beneficiary may elect to receive hospice benefits for an initial period of 90 days, a subsequent period of 90 days, a second subsequent period of 30 days, and a final period of unlimited duration.

(v) *Conditions for coverage.* The CHAMPUS beneficiary must meet the following conditions/criteria in order to be eligible for the hospice benefits and services referenced in paragraph (e)(19)(i) of this section.

(A) There must be written certification in the medical record by the beneficiary's attending physician (if the patient has an attending physician) and the medical director of the hospice providing the care, or by a physician member of the hospice interdisciplinary team that the beneficiary is terminally ill with a life expectancy of six months or less.

(*1*) Written certification must be made within two calendar days after hospice care is initiated. If the hospice cannot obtain the written certifications within two calendar days, it must obtain oral certifications within two calendar days and written certification no later than eight calendar days after hospice care is initiated.

(*2*) The medical director or a staff physician of the hospice program must recertify any subsequent periods of hospice care for which the beneficiary is eligible.

(*3*) Hospice staff must make an appropriate entry in the patient's medical record as soon as oral certification is received and file written certification in the medical record as soon as it is received.

(B) The terminally ill beneficiary must elect to receive hospice care for each specified period of time; i.e., the two 90-day periods, a subsequent 30-day period, and a final period of unlimited duration.

(*1*) The episodes of care must be used consecutively; i.e., the two 90-day periods first, then the 30-day period, followed by the final period.

(*2*) The initial election will continue through subsequent election periods without a break in care as long as the individual remains in the hospice and does not revoke the election.

(*3*) The effective date of the election may begin on the first day of hospice care or any subsequent day of care, but the effective date cannot be made prior to the date that the election was made.

(*4*) The beneficiary or representative may revoke a hospice election at any time, but in doing so, the remaining days of that particular election period are forfeited and standard CHAMPUS coverage resumes. To revoke the hospice benefit, the beneficiary or representative must file, with the hospice, a signed and dated statement with the hospice.

Note: Representative means an individual who has been authorized under State law to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

(*5*) If an election of hospice benefits has been revoked, the individual, or his or her representative, may at any time file a hospice election for any period of time still available to the individual, in accordance with § 199.4(e)(19)(v)(B).

(*6*) A CHAMPUS beneficiary may change, once in each election period, the designation of the particular hospice from which he or she elects to receive hospice care.

(*7*) Each hospice will design and print its own election statement to include the following information:

(*i*) Identification of the particular hospice that will provide care to the individual.

(*ii*) The individual's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness.

(*iii*) The individual's or representative's acknowledgment that he or she understands that certain CHAMPUS services are waived by the election.

(*iv*) The effective date of the election.

(*v*) The signature of the individual or representative, and the date signed.

(*8*) The hospice must notify the CHAMPUS contractor of the initiation, change or revocation of any election.

(C) The beneficiary must waive all rights to other CHAMPUS payments for the duration of the election period for:

(*1*) Care provided by any hospice program other than the one chosen unless provided under arrangements made by the elected hospice; and

(*2*) Other CHAMPUS basic program services/benefits related to the terminal illness, except for services of an attending physician who is not employed by or under contract with the hospice program.

(*3*) Basic CHAMPUS coverage will be reinstated upon revocation of the hospice election.

(D) A written plan of care must be established within two calendar days following the day of the beneficiary's assessment by the attending physician, medical director, or physician designee and interdisciplinary group (this group must have at least one physician, one registered professional nurse, one social worker, and one pastoral or other counselor) prior to providing care. The hospice must follow this plan in the treatment of the patient. The plan must be reviewed and updated, at intervals specified in the plan, by the attending physician, medical director and interdisciplinary group. These reviews must be documented.

(E) Complete medical records and all supporting documentation must be submitted to the CHAMPUS medical peer review contractor within 30 days of the date of its request. If records are not received within the designated time frame, authorization of the hospice benefit will be denied and any prior payments made will be recouped. A denial issued for this reason is not an initial determination under § 199.10 and is not appealable.

* * * * *

3. Section 199.6 is proposed to be amended by adding new paragraph (b)(4)(xiii).

§ 199.6 Authorized providers.

* * * * *

(b) * * *

(4) * * *

(xii) Hospice programs must be Medicare certified and meet all Medicare Conditions of participation (42 CFR part 418) in relation to CHAMPUS patients in order to receive payment under the CHAMPUS program.

The hospice program can be either a public agency or private organization (or a subdivision thereof) which:

(A) Is primarily engaged in providing the care and services described under § 199.4(e)(19) and makes such services available on a 24-hour basis.

(B) Provides bereavement counseling for the immediate family of terminally ill individuals.

(C) Provides for such care and services in individuals' homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the hospice program, except that the agency or organization must:

(*1*) Routinely supply a substantial amount of the nursing and physician services; medical supplies and appliances; and counseling services for the patient and his or her family.

(*2*) Maintain professional management responsibility for all services which are not directly furnished to the patient, regardless of the location or facility in which the services are rendered.

(*3*) Provide assurances that the aggregate number of days of inpatient care provided in any 12-month period does not exceed 20 percent of the aggregate number of actual days of care during the same period.

(*4*) Have an interdisciplinary group composed of the following personnel who provide the care and services described under § 199.4(e)(19) and establish the policies governing the provision of such care/services:

(*i*) One physician.

(*ii*) One registered professional nurse, and

(*iii*) One social worker.

(*iv*) One pastoral or other counselor.

(*5*) Maintain central clinical records on all patients.

(*6*) Utilize volunteers.

(*7*) In the case of an agency or organization in any state in which state or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law.

(*8*) The hospice must enter into an agreement with CHAMPUS in order to be qualified to participate and to be eligible for payment under the program. In this agreement the hospice and CHAMPUS agree the hospice will:

(*i*) Not charge the beneficiary or any other person for items or services for which the beneficiary is entitled to have payment made under the CHAMPUS hospice benefit.

(*ii*) Be allowed to charge the beneficiary for items or service requested by the beneficiary in addition to those that are covered under the CHAMPUS hospice benefit.

(*9*) Meet such other requirements as the Secretary of Defense may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

* * * * *

4. Section 199.10 is amended by adding a new paragraph (f).

§ 199.10 Appeal and hearing procedures.

* * * * *

(f) *Appeal rights under hospice benefit.* A beneficiary or provider is entitled to appeal rights for cases involving a denial of benefits in accordance with provisions this section and/or § 199.15.

* * * * *

5. Section 199.14 is amended by redesignating paragraphs (g), (h), (i), (j), and (k) as (h), (i), (j), (k), and (l), adding new paragraph (g).

§ 199.14 Provider reimbursement methods.

* * * * *

(g) *Reimbursement of hospice programs.* Hospice care will be reimbursed at one of four predetermined national Medicare rates based on the type and intensity of services furnished to the beneficiary. A single rate is applicable for each day of care except for continuous home care where payment is based on the number of hours of care furnished during a 24-hour period.

(1) CHAMPUS will use the national Medicare hospice rates for reimbursement of each of the following levels of care provided by or under arrangement with a CHAMPUS approved hospice program:

(i) *Routine home care.* The hospice will be paid the routine home care rate for each day the patient is at home, under the care of the hospice, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day.

(ii) *Continuous home care.* The hospice will be paid the continuous home care rate when continuous home care is provided. The continuous home care is divided by 24 hours in order to arrive at an hourly rate.

(A) A minimum of 8 hours of care must be provided within a 24-hour day starting and ending at midnight.

(B) More than half of the continuous home care must be provided by either a registered or licensed practical nurse.

(C) Homemaker and home health aide services may be provided to supplement the nursing care to enable the beneficiary to remain at home.

(D) For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to 24 hours a day.

(iii) *Inpatient respite care.* The hospice will be paid at the inpatient respite care rate for each day on which the beneficiary is in an approved inpatient facility and is receiving respite care.

(A) Payment for respite care may be made for a maximum of 5 days at a time, including the date of admission but not counting the date of discharge.

(B) Payment for the sixth and any subsequent days is to be made at the routine home care rate.

(iv) *General inpatient care.* Payment at the inpatient rate will be made when general inpatient care is provided. None of the other fixed payment rates (i.e., routine home care) will be applicable for a day on which the patient receives general inpatient care except on the date of discharge.

(v) *Date of discharge.* For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient. When the patient is discharged deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

(2) *Physician reimbursement.* Payment is dependent on the physician's relationship with both the beneficiary and the hospice program.

(i) *Physicians employed by or contracted with the hospice.*

(A) Administrative and supervisory activities (i.e., establishment, review and updating of plans of care, supervising care and services, and establishing governing policies) are included in the adjusted national payment rate.

(B) Direct patient care services are paid in addition to the adjusted national payment rate.

(*1*) Physician services will be reimbursed in accordance with CHAMPUS' allowable charge methodology.

(*2*) Physician payments will be counted toward the hospice cap limitation.

(ii) *Independent attending physician.* Patient care services rendered by an independent attending physician (a physician who is not considered employed by or under contract with the hospice) are not part of the hospice benefit.

(A) Attending physician may bill in his/her own right.

(B) Services will be subject to the appropriate allowable charge methodology.

(C) Reimbursement is not counted toward the cap limitation.

Note: Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

(D) The hospice must notify the CHAMPUS contractor of the name of the physician whenever the attending physician is not a hospice employee.

(iii) No payment will be allowed for physician services furnished voluntarily (both physicians employed by and under contract with the hospice and independent attending physicians). Physicians may not discriminate against CHAMPUS beneficiaries; e.g., designate all services rendered to non-CHAMPUS patients as volunteer and at the same time bill for CHAMPUS patients.

(3) *Cap amount.* Each CHAMPUS approved hospice program will be subject to a cap on aggregate CHAMPUS payments from November 1 through October 31 of each year, hereafter known as "the cap period."

(i) The cap amount will be adjusted annually by the percent of increase or decrease in the medical expenditure category of the Consumer Price Index for all urban consumers (CPI–U).

(ii) The aggregate cap amount (i.e., the statutory cap amount times the number of CHAMPUS beneficiaries electing hospice care during the cap period) will be compared with total actual CHAMPUS payments made during the same cap period.

(iii) Payments in excess of the cap amount must be refunded by the hospice program.

Note: The adjusted cap amount will be obtained from the Health Care Financing Administration (HCFA) prior to the end of each cap period.

(iv) Calculation of the cap amount for a hospice which has not participated in the program for an entire cap year (November 1 through October 31) will be based on a period of a least 12 months but no more than 23 months. For example, the first cap period for a hospice entering the program after November 1, 1993, but before November 1, 1994, will have a cap period from November 1, 1993, through October 31, 1995.

(4) *Inpatient limitation.* Payments for inpatient hospice care are subject to a limitation on the number of days of inpatient care furnished to a CHAMPUS patient.

(5) *Hospice reporting responsibilities.* The hospice is responsible for reporting the following data within 30 days after the end of the cap period:

(i) Total number of inpatient days furnished to CHAMPUS hospice patients (both general inpatient and inpatient respite days).

(ii) Total number of CHAMPUS hospice days (both inpatient and home care).

(iii) Total number of beneficiaries electing hospice care. The following rules must be adhered to by the hospice in determining the number of CHAMPUS beneficiaries who have elected hospice care during the period:

(A) The beneficiary must not have been counted previously in either another hospice's cap or another reporting year.

(B) The beneficiary must file an initial election during the period beginning September 28 of the previous cap year through September 27 of the current cap year in order to be counted as an electing CHAMPUS beneficiary during the current cap year.

(C) Once a beneficiary has been included in the calculation of a hospice cap amount he or she may not be included in the cap for that hospice again, even if the number of covered days in a subsequent reporting period exceeds that of the period where the beneficiary was included.

(D) There will be proportional application of the cap amount when a beneficiary elects to receive hospice benefits from two or more different CHAMPUS certified hospices. A calculation must be made to determine that percentage of the patient's length of stay in each hospice relative to the total length of hospice stay.

(*i*) During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days, both for general inpatient care and respite care, may not exceed 20 percent of the aggregate total number of days of hospice care provided to all CHAMPUS beneficiaries during the same period.

(*ii*) Payments in excess of the inpatient limitation must be refunded by the hospice program.

(6) *Reconsideration of cap amount and inpatient limit.* A hospice dissatisfied with the contractor's calculation and application of its cap amount and/or inpatient limitation may request and obtain a contractor review if the amount of program reimbursement in controversy—with respect to the matters which the hospice has a right to review—is at least $1000. The administrative review by the contractor of the calculation and application of the cap amount and inpatient limitation is the only administrative review available. These calculations are not subject to the appeal procedures set forth in § 199.10.

Note: The methods and standards for calculation of the hospice payments rates established by CHAMPUS, as well as questions as to the validity of the applicable law, regulations or CHAMPUS decisions, are not subject to administrative review, including the appeal procedures of § 199.10 of this part.

(7) *Beneficiary cost-sharing.* There are no deductibles under the hospice benefit. CHAMPUS pays the full cost of all covered services for the terminal illness, except for small cost-share amounts of outpatient drugs and inpatient respite care.

(i) The patient is responsible for 5 percent of the cost of outpatient drugs or $5 toward each prescription, whichever is less. Additionally, the cost of prescription drugs (drugs or biologicals) may not exceed that which a prudent buyer would pay in similar circumstances; that is, a buyer who refuses to pay more than the going price for an item or service and also seeks to economize by minimizing costs.

(ii) For inpatient respite care, the cost-share for each respite care day is equal to 5 percent of the amount CHAMPUS has estimated to be the cost of respite care, after adjusting the national rate for local wage differences.

(iii) The amount of the individual cost-share liability for respite care during a hospice cost share period may not exceed the Medicare inpatient hospital deductible applicable for the year in which the hospice cost-share period began. The individual hospice cost share period begins on the first day an election is in effect for the beneficiary and ends with the close of the first period of 14 consecutive days on each of which an election is not in effect for the beneficiary.

* * * * *

Dated: September 2, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–21950 Filed 9–9–93; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN22–1–5724;FRL–4728–1]

Approval and Promulgation of an Implementation Plan for Vehicle Miles Traveled; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to conditionally approve a request for a State Implementation Plan (SIP) revision, addressing the Lake and Porter County ozone nonattainment area, submitted by the State of Indiana for the purpose of offsetting any growth in emissions from growth in vehicle miles traveled (VMT) or number of vehicle trips, and to attain reduction in motor vehicle emissions, in combination with other emission reduction requirements, as necessary to comply with Reasonable Further Progress (RFP) milestones and attainment requirements of the Clean Air Act (Act). The implementation plan request was submitted by the State of Indiana to satisfy the statutory mandate that the State submit a SIP revision which identifies and adopts specific enforceable TCMs to offset any growth in emissions from growth in VMT or number of vehicle trips in severe and extreme ozone nonattainment areas. The rationale for the conditional approval is set forth in this document; additional information is available at the address indicated in the **ADDRESSES** section.

DATES: Comments on this proposed action must be received in writing by October 9, 1993. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the State's submittal and U.S. EPA's technical support document are available for inspection during normal business hours at the following location: Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(d)(1)(A) of the Clean Air Act (Act), as amended in 1990, requires States containing ozone nonattainment areas classified as "severe" pursuant to section 181(a) of the Act to adopt transportation control measures (TCMs) and transportation control strategies to offset any growth in emissions from growth in VMT or number of vehicle trips, and to attain reductions in motor vehicle emissions (in combination with other emission reduction requirements) as necessary to comply with the Act's RFP milestones and attainment requirements. The requirements for establishing a VMT Offset program are discussed in the April 16, 1992, General Preamble to Title I of the Act (57 FR 13498), in addition to section 182(d)(1)(A) of the Act.

Section 110(k) of the Act contains provisions governing U.S. EPA's action on SIP submittals. Once found to be complete (or deemed complete by the passage of time), this section authorizes U.S. EPA to take one of three actions on SIP submittals. As provided by section 110(k)(3), if the submittal satisfactorily addresses all of the required VMT Offset elements, the U.S. EPA will grant full approval. U.S. EPA may grant a conditional approval of the submission under section 110(k)(4), however, if the submittal contains: (1) A commitment from the Governor or the Governor's designee to take the required actions; (2) a schedule establishing a date certain for taking the required actions, with the date not being later than one year from the time U.S. EPA will issue a final conditional approval; and (3) evidence that a public hearing was held on the commitments. See July 22, 1992, memorandum from Michael M. Shapiro, Deputy Assistant Administrator for Air and Radiation, entitled "Guidelines for State Implementation Plan (SIP) Submittals Due November 15, 1992." Finally, if the submittal fails to adequately address or commit to address one or more of the mandatory VMT Offset elements, the U.S. EPA must issue a disapproval. A State plan may therefore be approved, conditionally approved or disapproved.

In order to satisfy the applicable requirements, and to gain full approval, section 182(d)(1)(A) requires that a State VMT offset SIP submittal must: (1) Identify and adopt specific enforceable transportation control strategies and TCMs to offset any growth in emissions from growth in VMT or number of vehicle trips; (2) identify and adopt specific enforceable transportation control strategies and TCMs that attain reductions in motor vehicle emissions (in combination with other emission reduction requirements) as necessary to comply with RFP milestones; (3) consider and choose from among the 16 types of measures specified in section 108(f) of the Act and implement such measures as necessary to demonstrate attainment of the National Ambient Air Quality Standards; and (4) ensure adequate access to downtown or other commercial, and residential areas, and ensure that emissions and congestion are reduced rather than relocated.

II. Analysis

The following discussion provides more information on the requirements for full approval, and Indiana's efforts to meet these requirements. Section 182(d)(1)(A) sets forth four requirements that must be met by a VMT Offset SIP. The first and second requirements mandate that the State submit a revision, by November 15, 1992, that identifies and adopts specific enforceable transportation control strategies and TCMs to offset any growth in emissions from growth in VMT or number of vehicle trips in affected areas, and attains reduction in motor vehicle emissions as necessary in combination with other emission reduction requirements of the Act, title I, part D, subpart II to comply with the requirements of section 182(d)(1)(A). This requirement is to ensure that projected motor vehicle volatile organic compound (VOC) emissions will never be greater during the ozone season in any given year than during the preceding year's ozone season. When growth in VMT and vehicle trips would otherwise cause a motor vehicle emissions upturn, that upturn must be prevented. The emissions level at the point of potential upturn becomes a ceiling on motor vehicle emissions.

It should be noted that while the above requirements are simple in concept, their application could encourage areas to delay VMT or emissions reduction measures suitable for use as offsets until the trend in motor vehicle emissions reaches its minimum point and is about to turn upwards. To implement the VMT offset provision while avoiding this counterproductive incentive for delay, U.S. EPA looks for State compliance with the following approach; if projected motor vehicle emissions during the ozone season in one year are not higher than during the ozone season the year before, given the control measures in the SIP, the VMT offset requirement is satisfied. However, if the State plans to implement control measures over and above those specifically required by the Act and those required to demonstrate RFP and attainment, earlier than would be necessary and sufficient to prevent an emissions upturn, a projected subsequent growth-related increase to the level of emissions that would occur if these measures were scheduled later

will not be considered to violate the requirement to offset emissions due to growth in VMT or vehicle trips. The latter situation will be viewed as a temporary reduction in emissions to a level below that required by the provision, rather than an increase above the required level, with no effect on emissions at or after the point at which offsetting measures become essential to compliance.

The U.S. EPA will approve a SIP revision as meeting this provision despite a forecasted upturn in vehicle emissions, as long as motor vehicle volatile organic compound (VOC) emissions in the ozone season of a given year do not exceed a ceiling level which reflects a hypothetical strategy of implementing otherwise specifically required measures on schedule and saving offset measures until the point at which VMT growth would otherwise cause an emission upturn. The ceiling level is therefore defined (up to the point of upturn) as motor vehicle emissions that would occur in the ozone season of that year, with VMT growth, if all measures for that area in that year were implemented as required by the Act. When this curve begins to turn up due to growth in VMT or vehicle trips, the ceiling becomes a fixed value. The ceiling line would include the effects of Federal measures such as new motor vehicle standards, Phase II RVP controls, and reformulated gasoline, as well as Act-mandated SIP requirements such as enhanced inspection and maintenance, the fleet clean-fuel vehicle program, and the employee commute options program. The ceiling line would also include the effect of forecasted growth in VMT and vehicle trips in the absence of new discretionary measures to reduce them. The ceiling line must, in combination with projected emissions from nonvehicle sources, satisfy the RFP requirements for the area. Any VMT reduction measures or other actions to reduce motor vehicle emissions adopted since November 15, 1990 and not specifically required for the area by another provision of the Act would not be included in the calculation of the ceiling line.

Forecasted motor vehicle emissions must be held at or below the minimum level of the ceiling line after the ceiling line reaches its minimum level. If an area implements offset measures early, the forecasted emissions will be less than the ceiling line, and forecasted motor vehicle emissions could increase from one year to the next, as long as forecasted emissions never exceed the ceiling line.

The emissions offset requirements apply to projected emissions during the years between submission of the SIP revision and the statutory ozone national ambient air quality standard (NAAQS) attainment deadline. The State has not met these requirements but has forecasted future travel and emissions levels, has evaluated a number of TCMs and has committed to implement these requirements by adopting specific enforceable measures within one year of U.S. EPA conditional approval.

The third requirement is that the State shall consider TCMs specified in section 108(f) and choose from among and implement such measures as necessary to demonstrate attainment with the NAAQS standards. The State has not met this requirement, but is assessing TCM strategies to offset any growth in emissions from growth in VMT or number of vehicle trips and has committed to implement this requirement by adopting specific enforceable measures within one year of U.S. EPA conditional approval.

The fourth requirement is that the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. The State has not met this requirement, but has made progress toward forecasting future emissions that would occur from implementing specific TCMs, and has committed to meet this requirement by adopting specific enforceable measures within one year of U.S. EPA conditional approval.

The State of Indiana has not submitted a SIP revision implementing all the requirements relevant to the nonattainment classification of the State's nonattainment areas contained in section 182(d)(1)(A) of the Act. Indiana has, however, projected motor vehicle emissions until the statutory attainment year of 2007 using the most recent population and economic growth projections. Although these projections were not a part of the formal SIP revision submission, the projections have been reviewed in draft by the U.S. EPA. Using current VMT forecasts, these projections show that motor vehicle emissions are not expected to rise above the ceiling level through the year 2007. In addition, Indiana has identified and evaluated a number of specific transportation control measures to reduce single occupancy vehicle usage. These TCMs have also been received in draft and reviewed by U.S. EPA. Several of these identified transportation control measures are currently in the process of being implemented.

The remaining requirements of the VMT offset pertain to the RFP and attainment demonstrations. Indiana is currently preparing the RFP SIP revision submittal and is actively participating in the urban airshed modeling being conducted for the attainment demonstration for the Lake Michigan region. The 1990 to 1996, 15 percent RFP SIP revision request is required by the Act to be submitted by November 15, 1993, (see section 182(b)(1)(A)) and the 3 percent per year RFP and the attainment demonstration SIP revision is required to be submitted by November 15, 1994 (see section 182(c)(2)(A)).

Indiana has made a commitment to adopt each of the required elements and submit these as a SIP revision request within one year of U.S. EPA conditional approval. These commitments were subjected to a public hearing on October 22, 1992. The commitment however, did not include a schedule nor the absolute November 15, 1994, date in the General Preamble to Title I of the Act (57 FR 13498 at 13523) (in the event U.S. EPA grants final conditional approval after November 15, 1993) for the final full submittal. Under section 110(k)(4) of the Act, U.S. EPA may conditionally approve a VMT Offset plan revision if the State commits to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision, and submits a schedule or workplan. Because Indiana did not include a schedule and did not specifically include the November 15, 1994, date for the final submittal as indicated in the General Preamble to Title I, U.S. EPA cannot take final action to conditionally approve the SIP revision until Indiana formally submits these required elements. The submittal with the schedule and November 15, 1994 deadline, with evidence of public hearing, must be submitted to the U.S. EPA before the U.S. EPA takes final action to conditionally approve the commitment, otherwise the SIP revision request must be disapproved. The schedule should include interim milestones such as projection of emissions, evaluation of TCMs and dates for formal submittals such as the RFP analysis including any TCMs necessary to meet the required reduction and the attainment demonstration with any TCMs necessary to meet attainment.

U.S. EPA believes that VMT Offset submittals such as Indiana's are appropriate for conditional approval considerations because section 182(d)(1)(A) of the Act requires that specific, enforceable measures

identified and adopted by the State be submitted by November 15, 1992, along with a demonstration that they are adequate to offset any growth in emissions from growth in VMT or number of vehicle trips, which U.S. EPA interprets to mean adequate to hold vehicle emissions within the emissions ceiling described in the General Preamble to Title I, Section III (A)(5)(d) (57 FR 13498, 13521–13523). The Act also states that these measures, beyond offsetting growth in emissions, shall be sufficient to allow total area emissions to comply with the RFP and attainment requirements. These requirements create a timing problem. Ozone nonattainment areas affected by this provision are not otherwise required to submit SIP demonstrations which would predict attainment of the 1996 RFP milestone until November 15, 1993, and likewise are not required to demonstrate post–1996 RFP and attainment until November 15, 1994. U.S. EPA does not believe that Congress intended the offset growth provisions to advance the dates for these broader submissions. Even without the requirement that the offset growth measures be sufficient to allow overall RFP and attainment in conjunction with other measures, U.S. EPA believes that the November 15, 1992, date might not allow the States sufficient time to develop a set of measures that would comply with the offset growth provisions over the long term.

To solve this timing problem and to allow a more coordinated and comprehensive planning process, U.S. EPA may accept and conditionally approve committal SIP revisions for the offset growth requirements under the authority of section 110(k)(4) of the Act. This could allow States one (1) year from the date of U.S. EPA's final *conditional* approval of the committal SIP revision, but not beyond November, 1994, to submit the full revision containing sufficient measures in specific and enforceable form.

III. Proposed Rulemaking Action

U.S. EPA is proposing to conditionally approve the SIP revision commitment submitted by the State of Indiana, if the State submits a schedule and a date certain (not beyond November 15, 1994) for the full submittal with enforceable measures by the close of the public comment period. If the State does not submit the required schedule and date certain, then U.S. EPA proposes in the alternative to disapprove the SIP revision commitment.

If U.S. EPA takes final conditional approval on the commitment, the State must meet its commitment to adopt the specific enforceable VMT requirements, as necessary, in combination with other emission reduction requirements, and submit these rules to U.S. EPA within the time specified in its schedule but no later than November 15, 1994. If the State fails to adopt or submit the necessary requirements to U.S. EPA within this time frame, this approval will become a disapproval upon U.S. EPA notification of the State by letter. At that time, this commitment will no longer be a part of the approved Indiana SIP. U.S. EPA subsequently will publish a notice in the notice Section of the **Federal Register** indicating that the commitment has been disapproved and removed from the SIP. If the State adopts and submits all necessary rules to U.S. EPA within the applicable time frame, the conditionally approved commitment will remain a part of the SIP until U.S. EPA takes final action approving or disapproving the new submittal. If U.S. EPA approves the new submittal, those newly approved requirements will become a part of the SIP.

If U.S. EPA issues a final disapproval, or if the conditional approval is converted to a disapproval, the sanctions clock under section 179(a) will begin to run. This clock will begin at the time U.S. EPA issues the final disapproval or at the time U.S. EPA notifies the State by letter that a conditional approval has been converted to a disapproval. If the State does not submit and U.S. EPA does not approve the requirements on which the disapproval was based within 18 months of the disapproval, U.S. EPA must impose one of the sanctions under section 179(b)—highway funding restrictions or the offset sanction. In addition, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). Finally, under section 110(m), U.S. EPA has discretionary authority to impose sanctions at any time after a final disapproval or conversion of conditional approval to disapproval.

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989 the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for a period of two years. U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on U.S. EPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, U.S. EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, U.S. EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids U.S. EPA to base its actions concerning SIPs on such grounds. See *Union Electric CO. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to disapproval under section 110(k) of the Act, based upon the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, U.S. EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, U.S. EPA certifies that this potential disapproval does not have a significant impact on a substantial number of small entities because it does not remove existing state requirements nor does it substitute a new Federal requirement.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 1, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–22192 Filed 9–9–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[CA57-4-6047; FRL-4727-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) adopted by the South Coast Air Quality Management District (SCAQMD) on September 6, 1991 and on August 2, 1991. The California Air Resources Board (CARB) submitted these revisions to EPA on May 13, 1993 and on June 19, 1992. The revisions concern the following SCAQMD rules: Rule 1151, Motor Vehicle Non-Assembly Line Coating Operations and Rule 1171, Solvent Cleaning Operations. The intended effect of proposing limited approval and limited disapproval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPR) will incorporate these rules into the federally approved SIP. EPA has evaluated the revisions to Rules 1151 and 1171 and is proposing a limited approval under provisions of the CAA regarding EPA actions on SIP submittals and general rulemaking authority because these revisions strengthen the SIP. At the same time, EPA is proposing a limited disapproval under the CAA provisions cited above because the rules do not meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before October 12, 1993.

ADDRESSES: Comments may be mailed to: Daniel Meer, Rulemaking Section II (A-5-3), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 L Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Chris Stamos, Rulemaking Section II (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744-1187.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the Los Angeles South Coast Air Basin. 43 FR 8964; 40 CFR 81.305. Because the Los Angeles South Coast Air Basin was unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under pre-amended section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238. The Los Angeles South Coast Air Basin did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the SCAQMD portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Los Angeles South Coast Air Basin is classified as extreme;[2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on September 14, 1992 and on May 13, 1993 including the rules being acted on in this document.[3] This document addresses EPA's proposed action for Rule 1151, Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations, and Rule 1171, Solvent Cleaning Operations. These submitted rules were found to be complete on July 19, 1993 and on August 27, 1992 pursuant to EPA's completeness criteria, as revised on August 26, 1991 (56 FR 42216) and set forth in 40 CFR part 51, appendix V and are being proposed for limited approval and limited disapproval.

Rule 1151 controls VOC emissions from motor vehicle and mobile equipment refinishing operations, and Rule 1171 controls emissions from solvent cleaning operations. VOCs contribute to the production of ground level ozone and smog. Rules 1151 and 1171 are new rules which have been adopted to meet EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for SCAQMD Rules 1151 and 1171.

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Los Angeles South Coast Air Basin retained its designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] The rule submitted on May 13, 1993 (SCAQMD Rule 1151, Motor Vehicle and Mobile Equipment Non-assembly Line Coating Operations) was substantially similar to earlier VOC rules adopted by SCAQMD, except it added a termination date to an exemption for aerosol containers. After the rule was submitted, other SCAQMD VOC rules that also terminated the aerosol container exemption were invalidated in trial court rulings. See, e.g., *Dunn-Edwards Corp.* v. *South Coast Air Quality Management District*, No. BC753978, (L.A. Super. Ct. Aug. 21, 1990), *rev'd*, No. B0655562 (2d App. Dist. May 19, 1993). Following these decisions, SCAQMD deleted the invalidated language from its VOC rules, including the rule contained in this rulemaking notice.

To preserve its rights while appealing the trial court decisions, SCAQMD did not hold a public hearing to formally readopt the revised rules. Nevertheless, EPA may approve this rule into the SIP because the deleted provisions are severable from the adopted rule. Moreover, the deletion of language terminating the aerosol container exemption does not create a new regulation; rather, the deletion revives the SCAQMD's original rule (which was fully adopted) that also exempted aerosol containers. See *Board of Osteopathic Examiners* v. *Board of Medical Examiners*, 53 Cal. App. 3d 78, 85, 125 Cal. Rptr. 619, 623-624 (1976).

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved into the SIP. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). Submitted Rules 1151 and 1171 control emissions from source categories for which EPA has not issued a CTG. Consequently, these rules were evaluated against the general RACT requirements of the Clean Air Act (section 110 and part D), 40 CFR part 51, *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations—Clarification to Appendix D of November 24, 1987* **Federal Register**; May 25, 1988 (EPA's "Blue Book"), and other EPA policy including the EPA Region 9 CARB document entitled, *Guidance Document for Correcting VOC Rule Deficiencies* (April, 1991). In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD Rules 1151 and 1171 are new rules which were adopted to control VOC emissions from motor vehicle and mobile equipment refinishing and solvent cleaning operations.

EPA has found that new Rules 1151 and 1171 will strengthen the SIP by controlling previously unregulated source categories in the Los Angeles Air Basin. Although SCAQMD Rules 1151 and 1171 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA. These deficiencies are related to recordkeeping requirements, test method references, control device equivalency, and rule applicability—a detailed discussion of rule deficiencies can be found in the Technical Support Documents for SCAQMD's Rule 1151 and Rule 1171 (dated 4/30/93 and 4/12/93 respectively) which are available from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD submitted Rules 1151 and 1171 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this NPR have been adopted by the SCAQMD and are currently in effect in the South Coast. EPA's limited disapproval action in this NPR does not prevent the SCAQMD or EPA from enforcing these rules.

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.

Regulatory Process

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

Limited approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. U.S. E.P.A., 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's limited disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures

published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: August 31, 1993.

John C. Wise,

Acting Regional Administrator.

[FR Doc. 93–22194 Filed 9–9–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CT–9–1–5895; RI–5–1–5855; A–1-FRL–4727–7]

Approval and Promulgation of Implementation Plans; Connecticut and Rhode Island; Stage II Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve Section 22a–174–30 of the Connecticut Regulations for the Abatement of Air Pollution entitled "Dispensing of Gasoline/Stage II Vapor Recovery" as a revision to the Connecticut State implementation plan (SIP) for ozone. In addition, EPA is proposing to approve amendments to Rhode Island's Regulation No. 11 entitled "Petroleum Liquids Marketing and Storage" as a revision to the Rhode Island SIP. On January 12, 1993 Connecticut and Rhode Island submitted these regulations to EPA in response to section 182(b)(3) of the Clean Air Act, as amended in 1990, which requires all ozone nonattainment areas classified as moderate or above to adopt regulations which require owners and operators of gasoline dispensing facilities to install and operate Stage II vapor recovery equipment.

DATES: Comments must be received by October 12, 1993.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203.

Copies of the States' submittals and EPA's technical support documents are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA. In addition, Connecticut's submittal is available at the Bureau of Air Management, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106 and Rhode Island's submittal is available at Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold at (617) 565–3166.

SUPPLEMENTARY INFORMATION: Under section 182(b)(3), EPA was required to issue guidance as to the effectiveness of Stage II systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement.[1] In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what EPA believes a State submittal needs to include to meet that requirement.

Under section 182(b)(3) of the amended Act, moderate and above ozone nonattainment areas were required to submit Stage II vapor recovery rules by November 15, 1992. In addition, section 184(b)(2) of the amended Act requires all areas that are located in an ozone transport region (OTR) to adopt Stage II regulations in accordance with section 182(b)(3) or measures that EPA has identified as capable of achieving equivalent reductions to section 182(b)(3) Stage II controls.[2] These measures must be submitted within 1 year of EPA's completion of its Stage II comparability study.

The entire State of Connecticut is designated nonattainment for ozone and is classified as serious, except for the south western portion of the State which is classified as severe. The entire State of Rhode Island is also designated nonattainment for ozone and is classified as serious. See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.307 and 81.340. In addition, both Connecticut and Rhode Island are located in the northeast ozone transport region. See CAA section 184(a). Thus, these States are required to adopt Stage II vapor recovery rules in accordance with sections 182(b)(3) and 184(b)(2) of the amended Act. I11Under section 182(b)(3), moderate and above ozone nonattainment areas are required to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. Section 182 (b)(3)(A) of the Act specifies that Stage II controls must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM)[3], any facility that dispenses more than 50,000 gallons of gasoline per month. As discussed in EPA's Enforcement Guidance, EPA recommends that the applicability determination be based on the average volume of gasoline dispensed per month for the two year period prior to state adoption of the regulation.

The Act also specifies the time by which certain facilities must comply with the State regulation. For facilities that are not owned or operated by an ISBM, these times, calculated from the time of State adoption of the regulation, are: (1) 6 months for facilities for which construction began after November 15, 1990; (2) 1 year for facilities that dispense greater than 100,000 gallons of gasoline per month (based on average monthly througput for the two year period prior to adoption); and (3) 2 years for all other facilities.

In addition, EPA's guidance states that States should require that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency by using: (1) A method tested and approved by the California Air Resources Board (CARB); (2) a testing program that is equivalent to the CARB program, that will be conducted by the State (or by a third party recognized by the State), and that EPA has approved (is proposing for approval) for incorporation into the SIP; or (3) a system approved by CARB. EPA guidance also states that facilities

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[1] These two documents are entitled "Technical Guidance-Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA-450/3-91-022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs."

[2] Pursuant to section 184(b)(2), by November 15, 1993, EPA must complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through the section 182(b)(3) Stage II controls. The EPA is in the process of performing that study.

[3] Section 324 of the Act defines an ISBM.

should be required to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change).

Furthermore, EPA's guidance specifies that sources subject to Stage II must maintain the following records on site: (1) A license or permit to install a Stage II system; (2) Stage II system testing results; (3) an equipment maintenance log; (4) training certification files; and (5) inspection and compliance records issued by the state. In addition, facilities not subject to Stage II should maintain files containing the gasoline throughput of the facility.

Connecticut's Stage II Regulations

On January 12, 1993, the Connecticut Department of Environmental Protection submitted to EPA Section 22a–174–30 entitled "Dispensing of Gasoline/Stage II Vapor Recovery." By this action, EPA is proposing to approve this submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The EPA has reviewed the State submittal against the statutory requirements and for consistency with EPA guidance. Connecticut's regulation and EPA's evaluation are detailed in a memorandum, dated April 15, 1993, entitled "Technical Support Document–Connecticut–Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

Connecticut's regulation prohibits the transfer of gasoline into a motor vehicle fuel tank at a dispensing facility unless a properly operating Stage II vapor recovery system is used for such transfer. This prohibition applies to the following gasoline dispensing facilities: (1) A facility which begins actual construction of a stationary storage tank after November 30, 1992 and such facility has a throughput of 10,000 gallons or more during any calendar month; (2) a facility for which construction commenced between November 15, 1990 and November 30, 1992 and which has a throughput of 10,000 gallons or more during any one month; (3) a facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 100,00 gallons or more calculated based on the highest throughput in a calendar month during the two year period between November 30, 1990 and November 30, 1992; and (4) a facility for which construction commenced on or before November 15, 1990 and which has a monthly throughput of 10,000 gallons or more during any calendar month after November 30, 1992. As previously stated, EPA's Enforcement Guidance specifies that the 10,000 gallon per month applicability cut-off should be based on the average monthly throughput for the two year period preceding adoption. Although some of Connecticut's applicability provisions outlined above are not based on a two year period, these provisions rely on throughput experienced during any one month rather than on an average monthly throughput. The compliance schedule stated in Connecticut's rule is consistent with that required by the Act. Connecticut's regulation does not contain a separate applicability cut-off or compliance schedule for ISBMs.

Consistent with EPA's guidance, Connecticut's regulation requires that facilities install Stage II systems that have been tested and approved by CARB or have been tested and approved by another state using test methods approved by CARB. The State also requires facilities to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major system modification of a facility. In addition, Connecticut's regulation requires facilities to maintain various records, such as an equipment maintenance log, in accordance with EPA's guidance. These records must be maintained in a location in the State of Connecticut for not less than five years. Although EPA's guidance states that these records should be kept on site, this difference in Connecticut's rule will not impede enforcement since the rule also requires that records be made available for inspection by the State or EPA.

Rhode Island's Stage II Regulations

On January 12, 1993, the Rhode Island Department of Environmental Management (DEM) submitted to EPA Regulation No. 11 entitled "Petroleum Liquids Marketing and Storage" which had been recently amended to include new Stage II vapor recovery requirements. By this action, EPA is proposing to approve this submittal as meeting the requirements of sections 182(b)(3) and 184(b)(2). The EPA has reviewed the State submittal against the statutory requirements and for consistency with EPA guidance. Rhode Island's regulation and EPA's evaluation are detailed in a memorandum, dated April 7, 1993, entitled "Technical Support Document–Rhode Island–Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

Rhode Island's Regulation No. 11 contains requirements for fixed roof tanks, external floating roof tanks, bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline tank trucks. This regulation was first approved into the Rhode Island SIP on May 7, 1981. Since that time, various amendments to this regulation have also been approved into the SIP. See 40 CFR 52.2070. The most recent amendments to this rule include three new definitions in Section 1 of the rule as well as a new section, Section 10, which contains Stage II vapor recovery requirements for gasoline dispensing facilities.

Section 10 requires that all gasoline dispensing facilities constructed or substantially modified after November 15, 1992, as well as all other facilities which have or have had a monthly throughput of greater than 10,000 gallons in any one month after November 1991, install and operate Stage II vapor recovery controls. Although the 10,000 gallon per month applicability cut-off in Rhode Island's rule is based on throughput occurring after November 1991 (approximately one year prior to adoption), rather than two year prior to adoption as stated in EPA's guidance, this difference is not critical since the applicability is based on throughput in any one month, rather than an average monthly throughput. Rhode Island's compliance schedule for installation of Stage II controls is also generally consistent with that required by the Act, except that the 100,000 gallon throughput referenced in the State's compliance schedule is again based on throughput in any one month after November 1991. Rhode Island's regulation does not contain a separate Stage II applicability cut-off or compliance schedule for ISBMs.

Consistent with EPA's guidance, Rhode Island's regulation requires that facilities install Stage II systems which have been approved by CARB. The State also requires facilities to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and at least once every five years and within thirty days of any major system modification of a facility. In addition, Rhode Island's regulation requires facilities to maintain various records, such as an equipment maintenance log, in accordance with EPA's guidance. Although the State does not require that facilities keep a file of inspection and compliance

reports issued by DEM as stated in EPA's guidance, enforcement of the rule is not impeded since these records are maintained by the State.

Rulemaking Action

Because EPA believes that the State of Connecticut has adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is proposing to approve Section 22a–174–30 of the Connecticut Regulations for the Abatement of Air Pollution entitled "Dispensing of Gasoline/Stage II Vapor Recovery" as meeting the requirements of sections 182(b)(3) and 184(b)(2). In addition, because EPA believes that the State of Rhode Island has also adopted a Stage II regulation in accordance with sections 182(b)(3) and 184(b)(2) of the Act, as interpreted in EPA's guidance, EPA is proposing to approve amendments to Rhode Island's Regulation No. 11 entitled "Petroleum Liquids Marketing and Storage" as meeting the requirements of sections 182(b)(3) and 184(b)(2).

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

Regulatory Process

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

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of 2 years (54 FR at 2222). The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: September 1, 1993.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 93–22195 Filed 9–9–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 372

[OPPTS–400069A; FRL–4644–9]

Emergency Planning and Community Right-to-Know; Notice of Availability and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and reopening of comment period.

SUMMARY: In the **Federal Register** of September 8, 1992, EPA published a proposed rule partially granting a petition to add 80 chemicals and 2 chemical categories to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). The period for accepting comments on the proposed rule ended November 9, 1992. Certain documents relevant to the review of this petition have been added to the public docket subsequent to the close of the public comment period. Additionally, certain information about the basis for listing for one chemical was included in the docket in the support document for the petition review but was not summarized in the discussion of the chemical in the preamble to the proposed rule. This information is summarized in this notice. To assure that the public and other interested parties are able to review and comment on the additional documents and information, EPA is requesting comment on the additional documents and information only. Comments must be confined to the contents of these documents. The Agency will not respond to comments on any other aspect of the petition or the proposed rule.

DATES: Comments must be received by September 27, 1993.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460, Attn: Docket Number OPPTS–400069.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop TS–799, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202.

SUPPLEMENTARY INFORMATION:

I. Introduction

In response to a petition to add 80 chemicals and 2 chemical categories to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA), EPA proposed to add 68 chemicals and 2 chemical categories that were found to meet the statutory criteria for listing. Alternatively, EPA proposed to add only that subset of chemicals that meet the statutory criteria for listing and are produced in quantities greater than a certain manufacturing threshold.

II. Description of Additional Documents and Information

For certain of the chemicals proposed for addition to section 313, estimates of environmental toxicity were estimated using Quantitative Structure Activity Relationships (QSARs). EPA's QSAR reference manual, which has been publicly available since 1988, was omitted from the public docket for the proposed rule. This document has now been added to the docket (Ref. 1).

Formic acid was proposed for listing based on acute human health effects only. EPA has reviewed a new study (Ref. 2) that became available following

the publication of the proposed rule, and has determined that this study is sufficient evidence for listing formic acid under EPCRA section 313(d)(2)(B) for chronic human health effects. Toxicity data from this study have also been used in the risk assessment for acute exposure for this chemical. This study has now been added to the docket.

Pronamide was proposed for listing based on chronic human health effects. EPA's Office of Pesticide Programs has received and recently completed its evaluation of an additional chronic feeding/oncogenicity study of pronamide in rats. Based on this information, the Office of Pesticide Programs has classified pronamide as a Group B2 compound for carcinogenicity (Ref. 3). EPA considers this to be sufficient evidence to meet the statutory criteria for listing under EPCRA section 313(d)(2)(B). This information has now been added to the docket.

Ethylidene dichloride was proposed for listing based on chronic human health effects (carcinogenicity). The basis for the carcinogenicity finding was summarized in the preamble to the proposed rule. Evidence of other types of chronic toxicity, including hepatotoxicity, renal toxicity, and respiratory effects, was included in the petition review support document, which was entered into the public docket for the proposed rule. However, this evidence of non-cancer chronic human health effects was inadvertently omitted from the discussion of the chemical in the preamble to the proposed rule. The Agency believes that the evidence for non-cancer chronic human health effects, combined with the evidence of carcinogenicity, constitutes sufficient evidence that this chemical meets the statutory criteria for listing under EPCRA section 313(d)(2)(B).

Several chemicals were proposed for listing based on acute human health effects only. Due to the time limitations imposed by the statute and limitations in production information available at the time of EPA's review, EPA was unable for the proposal to conduct exposure assessments for these chemicals. Therefore, EPA assumed for the purposes of the proposal that there are sufficient releases to reasonably anticipate that these chemicals would cause "significant adverse human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries" [Section 313(d)(2)(A)].

EPA has now conducted exposure assessments for the chemicals that were included in the alternative proposal based on evidence of acute human health effects only (Ref. 4). For three of these chemicals (formic acid, bis(2-chloroethoxy)methane, and methyl chlorocarbonate), the exposure analyses indicate that concentrations are likely to exist beyond facility site boundaries, as a result of continuous, or frequently recurring releases, at levels that can reasonably be anticipated to cause significant adverse acute human health effects. EPA has also conducted an exposure assessment for one chemical, crotonaldehyde, that was included in the alternative proposal based on evidence of ecotoxicity (Ref. 5). Based on this exposure analysis and crotonaldehyde's moderate ecotoxicity, the Agency does not believe in its judgment that the chemical satisfies the criterion of section 313(d)(2)(C). These exposure assessments, as well as the chemistry data (Ref. 6) and release estimates (Ref. 7) underlying them, have now been added to the docket. In addition, the Agency's ecological assessment of several chronic aquatic studies on crotonaldehyde was omitted from its support document and has now been added to the docket (Ref. 8).

III. Rulemaking Record

The documents listed under Unit IV. of this document are available for viewing and photocopying in the TSCA Nonconfidential Information Center (NCIC), also known as the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. E-G102, 401 M St., SW., Washington, DC.

IV. References

(1) U.S. EPA. 1988. Estimating Toxicity of Industrial Chemicals to Aquatic Organisms Using Structure Activity Relationships. EPA Publication #560/6-88-001.

(2) National Toxicology Program (NTP). 1992. NTP Technical Report on Toxicity Studies of Formic Acid (CAS No: 64-18-6) Administered by Inhalation to F344/N Rats and B6C3F1 Mice. NTPTOX 19, NIH Publication 92-3342. Research Triangle Park, NC.

(3) U.S. EPA/OPPTS/HED to SRRD. 1993. Memorandum from Nguyen B. Thoa, Ph.D., and Esther Rinde, Ph.D., Health Effects Division, to Robert Taylor, Registration Division, and Lois Rossi and Karen Farmer, Special Review and Reregistration Division. "Carcinogenicity Peer Review of Pronamide (3rd)."

(4) U.S. EPA/OPPT/EETD. 1993. "Final Exposure Report for the Proposed TRI Chemicals," Mary Ryan.

(5) U.S. EPA/OPPT/EETD. 1993. Memorandum from Bob Boethling, Chief, Environmental Fate Section, to David Brooks. "Reachscan/PDM Analyses for Crotonaldehyde."

(6) U.S. EPA/OPPT/EETD. 1993. "Final Chemistry Report for Formic Acid, Methyl Mercaptan, Methyl Chlorocarbonate, p-Chloro-m-cresol, and bis (2-Chloroethoxy)methane," Steven DeVito.

(7) U.S. EPA/OPPT/EETD. 1993. "Release Assessment for the Proposed RCRA Chemicals," Paul Quillen.

(8) U.S. EPA/OPTS/HERD to CCD. 1992. Memorandum from Maurice Zeeman, Ph.D., Chief, Environmental Effects Branch, to John Schaeffer, Program Manager, Chemical Testing and Information Branch. "Review of Daphnid Flow-Through Life-Cycle and Fathead Minnow Flow-Through Early Life Stage Chronic Toxicity Tests, Using Crotonaldehyde."

Dated: September 3, 1993.

Mark Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 93-22189 Filed 9-9-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 920545-2145; I.D. 083193B]

Endangered and Threatened Species; Endangered Status for Sacramento River Winter-Run Chinook Salmon

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

ACTION: New information and reopening of comment period.

SUMMARY: Based on new information about the 1993 spawning of winter-run chinook salmon, NMFS is reopening the comment period on the proposed rule to reclassify this species from threatened to endangered under provisions of the Endangered Species Act (ESA).

DATES: Comments should be received by October 12, 1993.

ADDRESSES: Comments should be addressed to Dr. William Fox, Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Office of Protected Resources, NMFS, (301) 713-2322 or Jim Lecky, Southwest Region, NMFS, (310) 980-4015.

SUPPLEMENTARY INFORMATION: On June 19, 1992 (57 FR 27416), NMFS published a proposed rule to reclassify Sacramento River winter-run chinook salmon from threatened to endangered under the ESA. On June 4, 1993, NMFS published a notice (58 FR 31688) delaying for up to 6 months its final determination on whether to reclassify this species in order to obtain and evaluate additional information on the 1993 spawning run.

Based on counts of fish passing the Red Bluff Diversion Dam, the California Department of Fish and Game (CDFG) estimates that the 1993 Sacramento River winter-run chinook salmon spawning run size is 341 adults. This represents a slight decline in one generation from the 1990 run, which was estimated at 441 adults, and a substantial decline from the 1992 run-size estimate of 1,180 adults. CDFG conducted numerous aerial surveys of redd (nest) counts in the Sacramento River during the winter-run chinook's spawning period, and observed an unusually large number of redds (about 110) due to excellent viewing conditions in the river. Based on these surveys, almost all winter-run chinook salmon redds appear to be located in a reach of the river, between Jelly's Ferry and Ball's Ferry, where the Bureau of Reclamation will be able to control water temperatures during the critical incubation and fry emergency stages in 1993. NMFS invites comments on this new information before making a final determination on whether to reclassify winter-run chinook salmon.

List of Subjects

50 CFR Part 222

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

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

(Authority: 16 U.S.C. 1531–1543)

Dated: September 3, 1993.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources.

[FR Doc. 93–22120 Filed 9–9–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 174
Friday, September 10, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Exemption of the Cache Creek Timber Salvage, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent insect epidemics on the Cache Creek project area, Lowman Ranger District, Boise National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: September 10, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Sigrist or Dautis Pearson, Lowman Ranger District, Boise National Forest, HC 77 Box 3020, Lowman, ID 83637, Telephone: 208–259–3361.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir bark beetle populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Lowman Ranger District personnel have developed a proposal to harvest dead and dying timber, and reforest damaged acres. The Forest Service has completed the Cache Creek Salvage Environmental Assessment (EA). Issues have been identified, alternatives have been developed and an analysis of the effects of implementing timber salvage and other recovery activities is complete.

The analysis area for the Cache Creek Salvage is located about 16 miles north of Lowman, Idaho. The Forest would salvage trees dead or dying from the bark beetles epidemic on 950 acres and recover approximately 4.0 million board feet (MMBF), 100 percent helicopter systems. The Douglas-fir beetle infestation has created several open areas of dead and dying trees. Salvage of these stands would result in "salvage openings," resembling clearcuts. A total of 100 acres of salvage opening would be created. These openings would range in size from 5 to 25 acres. These acres would be rehabilitated by planting with ponderosa pine and Douglas-fir, to increase the sites' timber productivity, resilience and diversity of forest stands. Natural regeneration would be used to reforest small areas (less than five acres in size).

No new road construction would occur Construction of approximately 1,000 feet of temporary road to access unit 8, and light reconstruction of approximately 10 miles of existing road. After harvest 8 miles of road would be closed and reclaimed. The project would have 4 helicopter landings. One landing exists, two landings will need light reconstruction and one new landing would be built. Management direction for the Bear Valley Management Area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The proposed project is not within an Inventoried Roadless Area nor is it within areas considered for wilderness in the Forest Plan, nor within areas recommended for wilderness in the recent legislative proposal entitled "Idaho Wilderness, Sustainable Forests and Communities Act of 1993".

The Forest Plan provides for the removal of salvage timber from lands within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual, and other onsite resources. The proposed action for the Cache Creek Salvage project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

Forest Pest Management Specialists and District Foresters have analyzed the insect situation and have found no economical or practical means to control the current insect epidemic. Although salvage harvesting and reforestation would not control the epidemic, these activities would: (1) Recover valuable timber that would otherwise deteriorate, (2) reforest those areas that have been left without tree cover as a result of the insect-caused mortality, and (3) disrupt beetle breeding cycles by pheromone baiting into the epicenters. Through the timber salvage operations, breeding insects can be removed in the logs and Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources that have been damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is justification to expedite this project.

The decision for the Cache Creek Salvage project may be implemented after publication of this notice in the **Federal Register** and after the decision has been signed by the responsible official. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that much of the salvage harvest could not be implemented during the 1993 normal operating season. This would result in a loss of an estimated 2.0 MMBF with an associated value of $200,000 due to deterioration. The total estimated value of the merchantable dead, dying and unhealthy timber is $400,000. Of this, approximately $100,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Warmfork Salvage Project, Lowman Ranger District, Boise National Forest, from appeal. The environmental assessment discloses the effects of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: September 2, 1993.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–22119 Filed 9–9–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of the Rainbow Meadows Recovery Project, Dixie National Forest, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that decisions to implement timber salvage and sanitation, tree baiting, and reforestation projects to rehabilitate and recover natural resources from recent spruce beetle attack (in the Rainbow Meadows area of the Cedar City Ranger District of the Dixie National Forest) are exempted from appeal as per provisions of 36 CFR 217.4(a)(11).

DATES: September 10, 1993.

FOR FURTHER INFORMATION CONTACT: Ronald S. Wilson, District Ranger, Dixie National Forest, P.O. Box 627, Cedar City, Utah 84720, (801) 865–3200.

SUPPLEMENTARY INFORMATION: Several years of drought in southern Utah have reduced soil moisture and added to the weakened condition of large spruce trees on the Cedar City Ranger District of the Dixie National Forest. This factor in combination with the high stocking and generally continuous mature spruce forest on the District has made a situation conducive to spruce beetle buildup.

The warm spring of 1992 and heavy winter snow of 1993 provided ideal conditions for spruce beetle population development, resulting in substantial buildups of spruce beetle from 1991–1993.

As part of the effort to rehabilitate and recover timber resources damaged by the insect population buildup, the Cedar City Ranger District is proposing to: (1) Salvage dead, dying and spruce beetle infested spruce; (2) remove additional live spruce trees necessary to reduce forest susceptibility levels to future spruce beetle attack; (3) salvage blow down spruce within 1–3 years following the initial entry, and; (4) bait and trap spruce beetles to designated locations to further interrupt their life cycles with the Rainbow Meadows area. To establish a new forest as quickly as possible, reforestation of 225 acres would be completed in areas that have been heavily impacted by spruce beetle mortality.

A district ID team has completed the NEPA process to identify issues, develop alternatives and to analyze the effects of implementing proposed recovery activities. This process has resulted in the completion of an environmental assessment documenting the analysis of the proposed action.

The project area is located approximately 14 air miles east of Cedar City, Utah, and 4 air miles southeast of Brian Head Ski area. The project area is approximately 841 acres; 605 acres are estimated to be forested and 236 acres are nonforest. The forest type is Englemann spruce and subalpine fir, with scattered aspen patches. Utah State Highway 143 splits this project area into nearly equal halves, north and south. Included in the project area are all, or portions, of the following legal locations: T36S R8W Sections 30 and 31, T36S R9W Sections 13 and 24; Salt Lake Meridian.

It is estimated that spruce beetle has killed 60–90% of the mature spruce on 225 acres of the 605 forested acres. Within these acres the proposed action would salvage dead, dying and spruce beetle infested trees. By removing spruce beetle infested trees, spruce beetle populations would be reduced, and the population cycle disrupted. These acres with heavy spruce beetle mortality are now considered to be unstocked openings. To bring these areas back to a stocked condition these areas would be partially or fully planted back to spruce, with natural regeneration of subalpine fir and aspen.

Approximately 380 acres in the project area have mortality from spruce beetle ranging from 0–30%. Mortality has increased substantially within these areas in the past year. Within the 380 acres that have light mortality levels, enough large trees remain in the stands to support continued spruce beetle population buildup. Any further losses of this spruce component would result in substantial losses from the standpoint of visual quality, wildlife habitat and forest health in this already heavily impacted spruce beetle area.

Of the 380 lightly affected acres, 270 acres would be commercially treated to remove dead, dying and spruce beetle infested trees. In addition to this salvage treatment, these acres would be treated through sanitation treatments removing selected spruce trees to reduce risk to future beetle infestation. This additional sanitation treatment is considered critical to forest health due to the adjacency of other spruce beetle populations within areas that are inaccessible or not expected to be treated due to their location within Cedar Breaks National Monument or the Ashdown Gorge Wilderness Area.

The remaining 110 acres of the 380 acres that have light spruce beetle populations would not be commercially treated with a timber harvest. These acres are not in low to moderate spruce beetle susceptible stands (mainly due to species mix), and would be treated with on-site tree destruction, only. In these areas spruce beetle infested trees would be felled, bucked up into 18 inch pieces and burned or covered in plastic to kill the insect brood. If plastic is used, it would be removed the field season following the action.

Within the total 495 acres to be commercially treated with a commercial timber harvest, followup salvage of blowdown and newly infested spruce beetle trees would be completed within 1–3 years following the initial entry. On the remaining 110 acres, any blow down or newly infested trees would be destroyed on site within 1–3 years.

Baits and trap trees would be used as necessary over the next 1–3 years within this project area to assist in further spruce beetle population reduction and life cycle disruptions. It is expected that no more than 15 additional acres would be impacted by bait and trap tree work.

To complete this operation approximately 1.2 miles of existing roads would require reconditioning. An additional 1 mile of temporary road would be constructed; these temporary roads would be rehabilitated, and revegetated, following treatment.

Management direction for the Rainbow Meadows area is established in the Dixie National Forest Land and Resource Management Plan (DNF–LRMP). The DNF–LRMP provides for the removal of salvage timber from lands within the project area, as well as the prevention of future losses of forests by spruce beetle infestations. In addition, the plan describes standards and guidelines which must be observed when harvesting timber to protect soil, water, wildlife, visual quality, and other resources. The proposed action for the Rainbow Meadows Recovery Project is consistent with the standards and guidelines contained in the DNF–LRMP.

The Regional entomologist has analyzed the insect situation and has assisted in the design of the rehabilitation and recovery process defined in the proposed action. The rehabilitation and recovery activities would: (1) Reduce spruce beetle populations and break up the insect life cycle; (2) reduce the risk of further deterioration of visual quality along Utah State Highway 143 (a Scenic By-way), wildlife habitat and forest health by reducing forest susceptibility to future bark beetle attach; (3) Rehabilitate affected areas to provide the most rapid progression toward the desired future condition; (4) reduce wildfire fire hazards and fuel loading, and; (5) recover the value of timber products in the project area that would otherwise be lost.

The Forest Supervisory has determined, through scoping and

environmental analysis, that there is good cause to expedite this project.

The decision for the Rainbow Meadows recovery project may be implemented after publication of this notice in the **Federal Register** and after the decision document has been signed by the responsible official. If the project is delayed because of appeals it is likely that beetle flight would occur before described actions can be implemented. This could result in the loss of many additional large spruce trees within the area. Volume and value lost due to insect damage could easily double within the next few months (value relates to both sawtimber deterioration and loss of visual quality).

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals the decision relating to salvage and sanitation harvest, tree baiting, and restoration of lands affected by spruce beetle in the Rainbow Meadows project area of the Cedar City Ranger District, Dixie National Forest. The environmental assessment discloses the effects of the proposed action on the environment and addresses the issues resulting from the proposal.

Dated: September 2, 1993.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA, Forest Service.

[FR Doc. 93–22121 Filed 9–9–93; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 12 p.m. and adjourn at 5 p.m. on Thursday, September 30, 1993, at the Council Chambers, Leon County Courthouse, 301 South Monroe Street, in Tallahassee. The purpose of the meeting is to discuss the status of the Commission and the Advisory Committee, to review problems and progress in civil rights throughout the State, and to update and discuss the current project. In addition, the Committee will receive information from the community on racial and ethnic tensions in Florida (Tallahassee).

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Bradford Brown, 305–361–4991, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 1, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–22039 Filed 9–9–93; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee to the Commission will be held from 9 a.m. to 5 p.m. on Thursday, September 30, 1993, and Friday, October 1, 1993, from 9 a.m. to 1 p.m. at the Midland Hotel, 172 West Adams Street, Chicago, Illinois. The purpose of the meeting is to discuss current issues, orient members, plan future activities, and hold a press conference to release the Advisory Committee's report, *Police Protection of the African American Community in Chicago.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Faye M. Lyon, 815–965–9595, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 1, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–22040 Filed 9–9–93; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Oregon Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will be held on September 23, 1993, from 1 p.m. to 4 p.m., at the Red Lion Hotel—Columbia River, 1401 North Hayden Island Drive, Portland, Oregon 97217. The purpose of the meeting is to discuss the Advisory Committee's report on hate group activity in Oregon and to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Jeannette V. Pai, 503–378–5336, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 1, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–22041 Filed 9–9–93; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Project I.D. No. 06–10–94003–01]

Business Development Center Applications: Dallas/Fort Worth MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $368,020 in Federal funds. An audit fee of $9,201 has been added to the Federal amount (applicable only for non-CPA firms. CPA firms are audited by the Office of Inspector General). The total funding breakdown is as follows: $377,221 Federal and $66,568 non-Federal for a total of $443,789. The period of

performance will be from March 1, 1994 to February 28, 1995. The MBDC will operate in the Dallas/Fort Worth, Texas MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially be regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If the MBDC performs satisfactorily, it may continue to operate after the initial competitive year for up to 2 additional budget periods. An MBDC with year-to-date "commendable" and "excellent" performance ratings (28 consecutive months) may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Laws and Department of Commerce policies, regulations, and procedures applicable to Federal assistance financial awards.

Consistent with OMB Circular A–129, "Policies for Federal Credit Programs and Non-tax Receivables," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DoC are made.

Notification that a false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are currently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's managements honesty or financial integrity. Notification that if applicants incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and CD–511, the "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered by Transactions and Lobbying".

CLOSING DATE: The closing date for applications is November 10, 1993. Applications must be postmarked on or before November 10, 1993.

Note: Please mail completed application to the following address: Dallas Regional Office, 1100 Commerce St., room 7B23, Dallas, Texas 75242.

FOR ADDITIONAL INFORMATION REGARDING THIS SOLICITATION: Dallas Regional Office, 1100 Commerce Street, room 7B32, Dallas, Texas 75242, Attn: Demetrice Jenkins. (214) 767–8001

Requests for applications kit must be in writing.

A pre-bid conference will be held on October 8, 1993 in the Earl Cabell Federal Building, room 7B23, on 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: September 3, 1993.

Bobby Jefferson,

Acting Regional Director, Dallas Regional Office.

[FR Doc. 93-22122 Filed 9-9-93; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list

SUMMARY: This action adds to the Procurement List commodities, military resale commodities and services to be furnished bynonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 12, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: On April 30, June 18, July 16, 23 and 30, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (58 FR 26125, 33622, 38364, 39527 and 40800) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, military resale commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities, military resale commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities, military resale commodities and services.

3. The action will result in authorizing small entities to furnish the commodities, military resale commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities, military resale commodities and services proposed for addition to the Procurement List. Accordingly, the following commodities, military resale commodities and services are hereby added to the Procurement List:

Commodities

Line, Multi-Loop
1670-01-062-6302
Carrier Wheel Assembly
5340-01-000-8752
Folder, IRS Tax Form
Document No. 6981

Military Resale Commodities

Sweatshirt, Private Label
M.R. 630
M.R. 632
Sweatpants, Private Label
M.R. 631
M.R. 633

Services

Janitorial/Custodial, Department of Energy, Child Care Development Center, Germantown, Maryland.
Janitorial/Custodial, Army Depot, Corpus Christi, Texas.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-22204 Filed 9-9-93; 8:45 am]

BILLING CODE 6820-33-P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities, military resale commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities, military resale commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities, military resale commodities and service to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities, military resale commodities and service.

3. The action will result in authorizing small entities to furnish the commodities, military resale commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities, military resale commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities, military resale commodities and service have been proposed for addition to the Procurement List for production by the nonprofit agency listed:

Commodities

Sweatshirt, Hooded
8415-00-NIB-0012 Large
8415-00-NIB-0013 Extra Large
8415-00-NIB-0014 Medium
Sweatshirt, Crewneck
8415-00-NIB-0015 Large
8415-00-NIB-0016 Extra Large

8415-00-NIB-0017 Medium
Trousers, Sweat
8415-00-NIB-0018 Large
8415-00-NIB-0019 Extra Large
8415-00-NIB-0020 Medium
(Requirements for the U.S. Military Academy, West Point, NY)
Nonprofit Agency: Blind Industries and Services of Maryland Baltimore, Maryland at its facility in Salisbury, Maryland

Military Resale Commodities

Knife, Paring
M.R. 870
Knife, Steak/Utility
M.R. 871
Knife, Slicer
M.R. 874
Nonprofit Agency: Tampa Lighthouse for the Blind, Tampa, Florida

Service

Janitorial/Custodial, Bonneville Power Administration, Kalispell Maintenance Complex, 2520 Highway #2 East, Kalispell, Montana.
Nonprofit Agency: Flathead Industries for the Handicapped Kalispell, Montana.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-22205 Filed 9-9-93; 8:45 am]

BILLING CODE 6820-33-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security), DoD.

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force. The purpose of the meeting is to monitor the progress of relevant Federal and State agencies in implementing the reported recommendations of the previous task force and to discuss ways to expedite and improve environmental response actions at military installations that are being closed or realigned pursuant to Public Law 100-536 and Public Law 101-510. Testimony will be taken from invited witnesses. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the Task Force should contact LTC William Andrews, USA, Task Force Executive Director, and prepare a written statement which can be summarized orally before the Task Force at the time to be fixed for public witnesses. Written statements must be received by the close of business, September 16, 1993, at the Office of the Deputy Under Secretary of Defense (Environmental Security).

DATES: September 23, 1993, 9 a.m.-5 p.m., September 24, 1993, 9 a.m.-12 p.m.

ADDRESSES: Krueger Conference Center Auditorium, PRC/Environmental Management Inc., 1505 PRC Drive, McLean, Virginia 22102.

FOR FURTHER INFORMATION CONTACT: LTC William Andrews, USA, Task Force Executive Director, Office of the Deputy Under Secretary of Defense (Environmental Security), RM-3C771, the Pentagon, Washington, DC 20301-8000, telephone (703) 697-9793.

Dated: September 3, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-22107 Filed 9-7-93; 9:38 am]

BILLING CODE 5000-04-M

Department of the Army

Proposed Revision to DOD 4500.34R, Personal Property Traffic Management Regulation, Appendix A, Tender of Service, the Total Quality Assurance Program (TQAP) Pamphlet

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command (MTMC) will revise the TQAP pamphlet, dated February 1992 and the DOD 4500.34R, Personal Property Traffic Management Regulation, Appendix A, TOS, paragraph 52.e, to require carriers to furnish the DD Form 1840 to the origin PPSO within 75 calendar days of delivery.

DATES: October 12, 1993.

ADDRESSES: Comments on the proposed revision should be addressed to Headquarters, Military Traffic Management Command, ATTN: MTOP-QEC, 5611 Columbia Pike, room 629, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Wells, MTOP-QEC, (703) 756-1598.

SUPPLEMENTARY INFORMATION: This action is being taken to better streamline the TQAP procedures by removing the middle-man in the DD Form 1840 process. The revised paragraph 52.3 will read as follows: "I shall furnish the origin PPSO a copy of the DD Form 1840 within 75 calendar days of shipment delivery."

TQAP pamphlet, paragraph C.4.c.(8), page 24, will be changed to read: (8) Carriers will provide a copy of the DD Form 1840 to the origin PPSO within 75 calendar days of delivery of the shipment. The PPSO will sign and return by mail a receipt if a self addressed stamped card or letter of transmittal is included by the carrier."

All references in the TQAP pampblet which direct the destination PPSO has having the responsibility of returning the DD Forms 1840 to origin will be changed to coincide with the above paragraph change.

Guidance will be published in the TQAP procedures indicating shipments are normally scored after 120 days of delivery. This will allow the origin PPSO ample time to not only receive the DD Form 1840 from the carrier, but the DD Form 1780 and if availabe, a copy of the DD Form 1840-R. Origin PPSOs will be cautioned to allow carriers the maximum amount of time from delivery to return the DD Form 1840 before shipments are scored. Paragraph C.5. will recommend scoring to be done as soon as possible after the origin receives the DD Form 1840 and the feedback or DD Form 1780 from the destination.

Since these changes will directly involve the carrier industry, MTMC requests public comment on the proposed revisions. MTMC is providing notice of these proposed revisions and offering a 30-day period for receiving and considering the views of all interested parties. Timely written comments will be reviewed and considered for incorporation prior to publication of the final change.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93-22147 Filed 9-9-93; 8:45 am]

BILLING CODE 3710-08-M

Policy Change Concerning the Transloading of Department of Defense Arms, Division 1.1, 1.2, 1.3 Ammunition and Explosives

AGENCY: Military Traffic Management Command, DoD.

ACTION: Notice.

SUMMARY: Military Traffic Management Command (MTMC) is proposing that transloading of arms, division 1.1, 1.2, and 1.3 ammunition and explosives shipments be kept to a minimum and be performed in bona fide terminals or carriers facilities. In the case of truckload shipments, these commodities will not be offloaded or transferred en route except in cases of emergencies. In the case of less-than-truckload shipments, transloading will be kept to a minimum and performed only in a bona fide terminal or carrier facility. "The Agreement between the Military

Traffic Management Command and Motor Common Carriers Governing the Transportation of Ammunition and Explosives, Class A and B for and on behalf of the U.S. Department of Defense" will be amended to include the following: "Section 7. Safety and Security.

g. Shipments of division 1.1, 1.2 and 1.3 explosives will be moved in direct single line service, as outlined in Section 2 (Rules: Security Services) of the MTMC Freight Traffic rules Publication No. 1A. Truckload shipments of division 1.1, 1.2, 1.3 explosives will not be offloaded or transferred to another vehicle en route, except in emergencies (as defined in 49 Code of Federal Regulations (CFR) 390.5). On less-than-truckload shipments, loading and unloading of explosives will be kept to a minimum and will be performed in a bona fide terminal or carrier facility. If transloading less-than-truckload shipments is necessary, or if there is a change in equipment or driver after a shipment leaves origin, all drivers, tractors, and trailers must meet or exceed the inspection requirements of DD Form 626 (Motor Vehicle Inspection Report and 49 CFR). In addition, upon transloading the shipment, the carrier accepts liability for the integrity of the shipment and its blocking and bracing. Any failure to comply with the aforementioned will be cause for carrier performance action."

DATES: Comments must be received on or before October 12, 1993.

ADDRESSES: Submit written, signed, comments to the Military Traffic Management Command, ADCSOPS–Quality, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT:

Ms. Shirley Stachkunas, ADCSLOPS–Quality, Evaluation Division, (703) 756–1292.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–22045 Filed 9–9–93; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Anacostia River and Tributaries, District of Columbia and Maryland Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District, U.S. Army Corps of Engineers is investigating the feasibility of the construction of fish and wildlife restoration actions in the Anacostia River Basin. The environmental integrity of much of the Anacostia River and its tributaries has been severely degraded by urbanization and previous construction of Federal projects to meet flood control and navigation needs. The feasibility study of the potential restoration actions is being conducted under authority of a U.S. House of Representatives Committee on Public Works and Transportation resolution adopted September 8, 1988. The non-Federal sponsors for the feasibility phase of the project are: Montgomery County, Prince George's County, the District of Columbia, the State of Maryland, and the Interstate Commission on the Potomac River Basin, and the Metropolitan Washington Council of Governments.

ADDRESSES: Project Manager, Baltimore, District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–PR, P.O. Box 1715, Baltimore, Maryland 21203–1715.

FOR FURTHER INFORMATION CONTACT: Mr. Mark McKevitt, Project Manager (410) 962–2650.

SUPPLEMENTARY INFORMATION: 1. The U.S. House of Representatives, Committee on Public Works and Transportation, authorized the Anacostia River and Tributaries study in a resolution adopted on September 8, 1988. The resolution requested the Board of Engineers for Rivers and Harbors to determine if further improvements for flood control, navigation, erosion, sedimentation, water quality and other related water resources needs are advisable on the Anacostia River and tributaries.

2. The Anacostia River basin is a 170-square mile sub-basin of the Potomac River. Headwaters of the Anacostia River are in the piedmont and coastal plain areas of Montgomery and Prince George's Counties, Maryland and it joins with the Potomac River in the District of Columbia. The entire river system is freshwater; although, the tidal influence extends for approximately 8 miles above the confluence with the Potomac River.

The environmental integrity of much of the Anacostia River and its tributaries has been severely degraded by urbanization and previous construction of Federal Works to meet flood control and navigation needs. However, portions of the upper reaches of some of the tributaries are relatively undisturbed and contain unique environmental reaches for this watershed.

3. The Corps of Engineers involvement in the basin dates back more than 115 years and includes projects and programs for navigation, flood control, debris removal and aquatic vegetation control. These Federal actions have served their intended purposes well and have benefited the area in terms of improved navigation and reduced flood damages. However, from 1902 through the 1960's project construction eliminated approximately 2,600 acres of wetlands, 99,000 linear feet of aquatic habitat and 700 acres of bottomland hardwoods. These ecosystems performed numerous beneficial ecological functions for the Anacostia basin and associated Potomac River and Chesapeake Bay. One of the primary functions of these ecosystems is fish and wildlife habitat. Historically the Anacosita River basin contained a diverse assemblage of fish and wildlife species. However, populations of many species have sharply declined due to the habitat loss and degradation in the Anacostia basin.

4. For each of the following actions various restoration alternatives will be considered, including the No Action alternative. A summary of the proposed restoration action are as follows:

Site	Action	Target stream	Location
Wetland Restoration:			
Kingman Lake	WR	Anacostia River	Washington, DC.
River Fringe Wetlands	WR	Anacostia River	Washington, DC.
Fordham Street Wetland	WR	Northwest Branch	Prince George's Co.
Acquatic Restoration:			
NW Branch-PG Co	SR	Northwest Branch	Prince George's Co.
Tanglewood Retrofit	WR/SM/SR	Little Paint Branch	Montgomery Co.
Snowden's Mill I	WR/SM/SR	Paint Branch	Montgomery Co.
Snowden's Mill II	WR/SM/SR	Paint Branch	Montgomery Co.
Stewart/April Lane	WR/SM/SR	Paint Branch	Montgomery Co.

Site	Action	Target stream	Location
Lockridge Drive	WR/SM/SR	Northwest Branch	Montgomery Co.
Gum Springs	SR	Gum Springs	Montgomery Co.
Sligo Creek	SR	Sligo Creek	Montgomery Co.
NW Branch-Mont. Co			
Paint	SR	Northwest Branch	Montgomery Co.
Branch	SR	Paint Branch	Montgomery Co.
*WR—Wetland Restoration			
*SM—Stormwater Management			
*SR—Stream Restoration			

5. The Baltimore District is preparing a DEIS which will describe the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under authority of section 404 of the Clean Water Act of 1977 (Pub. L. 95–217).

6. The public involvement will include meetings and close coordination with interested private individuals and organizations, as well as concerned Federal, state and local agencies. A public notice requesting comments on the proposed project and DEIS will be provided to appropriate agencies and the public through printed media and mailings. A scoping meeting is not planned at this time. The Baltimore District invites potentially affected Federal, state and local agencies, and other interested organizations and parties to participate in this study. Agencies that are currently involved in the feasibility study and EIS process include, but are not limited to the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Geological Service, U.S. Soil Conservation Service, National Park Service, Montgomery County Department of Environmental Protection, Prince George's County Department of Environmental Resources, District of Columbia Department of Consumer and Regulatory Affairs and Department of Public Works, Maryland Department of Natural Resources, Maryland Department of the Environment, Maryland National Capital Park and Planning Commission, Interstate Commission on the Potomac River Basin, and the Metropolitan Washington Council of Governments.

7. The DEIS is tentatively scheduled to be available for public review in the spring of 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–22044 Filed 9–9–93; 8:45 am]

BILLING CODE 3710–41–M

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a copy of the Regulatory Guidance Letter (RGL 93–2) to all known interested parties. RGL's are used by the Corps of Engineers as a means to transmit guidance on the permit program (33 CFR parts 320–330) to its division and district engineers. The Corps of Engineers publishes RGL's in the **Federal Register** upon issuance as a means of informing the public of Corps guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1782.

SUPPLEMENTARY INFORMATION: RGL 93–2, Subject: Guidance on Flexibility of the 404(b)(1) Guidelines and Mitigation Banking is hereby published as follows:

Dated: September 2, 1993.

Approved:

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter, RGL 93–2.

Date: 23 August 1993, Expires: 31 December 1998.

Subject: Guidance on Flexibility of the 404(b)(1) Guidelines and Mitigation Banking.

1. Enclosed are two guidance documents signed by the Office of the Assistant Secretary of the Army (Civil Works) and the Environmental Protection Agency. The first document provides guidance on the flexibility that the U.S. Army Corps of Engineers should be utilizing when making determinations of compliance with the section 404(b)(1) Guidelines, particularly with regard to the alternatives analysis. The second document provides guidance on the use of mitigation banks as a means of providing compensatory mitigation for Corps regulatory decisions.

2. Both enclosed guidance documents should be implemented immediately. These guidance documents constitute an important aspect of the President's plan for protecting the Nation's wetlands, "Protecting America's Wetlands: A Fair, Flexible and Effective Approach" (published on 24 August 1993).

3. This guidance expires 31 December 1998 unless sooner revised or rescinded.

For The Director of Civil Works:

2 Encls

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Memorandum to the Field

Subject: Appropriate level of analysis required for evaluating compliance with the section 404(b)(1) guidelines alternative requirements.

1. Purpose: The purpose of this memorandum is to clarify the appropriate level of analysis required for evaluating compliance with the Clean Water Act section 404(b)(1) Guidelines' (Guidelines) requirements for consideration of alternatives. 40 CFR 230.10(a). Specifically, this memorandum describes the flexibility afforded by the Guidelines to make regulatory decisions based on the relative severity of the environmental impact of proposed discharges of dredged or fill material into waters of the United States.

2. Background: The Guidelines are the substantive environmental standards by which all section 404 permit applications are evaluated. The Guidelines, which are binding regulations, were published by the Environmental Protection Agency at 40 CFR part 230 on December 24, 1980. The fundamental precept of the Guidelines is that discharges of dredged or fill material into waters of the United States, including wetlands, should not occur unless it can be demonstrated that such discharges, either individually or cumulatively, will not result in unacceptable adverse effects on the aquatic ecosystem. The Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." 40 CFR 230.10(a). Based on this provision, the applicant is required in every case (irrespective of whether the discharge site is a special aquatic site or whether the activity associated with the discharge is water dependent) to evaluate opportunities for use of non-aquatic areas and other aquatic sites that would result in less adverse impact on the aquatic ecosystem. A permit cannot be issued, therefore, in circumstances where a less environmentally damaging practicable alternative for the

proposed discharge exists (except as provided for under section 404(b)(2)).

3. Discussion: The Guidelines are, as noted above, binding regulations. It is important to recognize, however, that this regulatory status does not limit the inherent flexibility provided in the Guidelines for implementing these provisions. The preamble to the Guidelines is very clear in this regard:

Of course, as the regulation itself makes clear, a certain amount of flexibility is still intended. For example, while the ultimate conditions of compliance are "regulatory", the Guidelines allow some room for judgment in determining what must be done to arrive at a conclusion that those conditions have or have not been met.

Guidelines preamble, "Regulation versus Guidelines", 45 FR 85336 (December 24, 1980).

Notwithstanding this flexibility, the record must contain sufficient information to demonstrate that the proposed discharge complies with the requirements of Section 230.10(a) of the Guidelines. The amount of information needed to make such a determination and the level of scrutiny required by the Guidelines is commensurate with the severity of the environmental impact (as determined by the functions of the aquatic resource and the nature of the proposed activity) and the scope/cost of the project.

a. Analysis Associated with Minor Impacts: The Guidelines do not contemplate that the same intensity of analysis will be required for all types of projects but instead envision a correlation between the scope of the evaluation and the potential extent of adverse impacts on the aquatic environment. The introduction to Section 230.10(a) recognizes that the level of analysis required may vary with the nature and complexity of each individual case:

Although all requirements in § 230.10 must be met, the compliance evaluation procedures will vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities.

40 CFR 230.10

Similarly, Section 230.6 ("Adaptability") makes clear that the Guidelines:

Allow evaluation and documentation for a variety of activities, ranging from those with large, complex impacts on the aquatic environment to those for which the impact is likely to be innocuous. It is unlikely that the Guidelines will apply in their entirety to any one activity, no matter how complex. It is anticipated that substantial numbers of permit applications will be for minor, routine activities that have little, if any, potential for significant degradation of the aquatic environment. *It generally is not intended or expected that extensive testing, evaluation or analysis will be needed to make findings of compliance in such routine cases.*

40 CFR 230.6(9) (emphasis added)

Section 230.6 also emphasizes that when making determinations of compliance with the Guidelines, users:

Must recognize the different levels of effort that should be associated with varying degrees of impact and require or prepare commensurate documentation. *The level of documentation should reflect the significance and complexity of the discharge activity.*

40 CFR 230.6(b) (emphasis added)

Consequently, the Guidelines clearly afford flexibility to adjust the stringency of the alternatives review for projects that would have only minor impacts. Minor impacts are associated with activities that generally would have little potential to degrade the aquatic environment and include one, and frequently more, of the following characteristics: Are located in aquatic resources of limited natural function; are small in size and cause little direct impact; have little potential for secondary or cumulative impacts; or cause only temporary impacts. It is important to recognize, however, that in some circumstances even small or temporary files result in substantial impacts, and that in such cases a more detailed evaluation is necessary. The Corps Districts and EPA Regions will, through the standard permit evaluation process, coordinate with the U.S. Fish and Wildlife Service, National Marine Fisheries Service and other appropriate state and Federal agencies in evaluating the likelihood that adverse impacts would result from a particular proposal. It is not appropriate to consider compensatory mitigation in determining whether a proposed discharge will cause only minor impacts for purposes of the alternatives analysis required by Section 230.10(a).

In reviewing projects that have the potential for only minor impacts on the aquatic environment, Corps and EPA field offices are directed to consider, in coordination with state and Federal resource agencies, the following factors:

(i) Such projects by their nature should not cause or contribute to significant degradation individually or cumulatively. Therefore, it generally should not be necessary to conduct or require detailed analyses to determine compliance with Section 230.10(c).

(ii) Although sufficient information must be developed to determine whether the proposed activity is in fact the least damaging practicable alternative, the Guidelines do not require an elaborate search for practicable alternatives if it is reasonably anticipated that there are only minor differences between the environmental impacts of the proposed activity and potentially practicable alternatives. This decision will be made after consideration of resource agency comments on the proposed project. It often makes sense to examine first whether potential alternatives would result in no identifiable or discernible difference in impact on the aquatic ecosystem. Those alternatives that do not may be eliminated from the analysis since Section 230.10(a) of the Guidelines only prohibits discharges when a practicable alternative exists which would have less adverse impact on the aquatic ecosystem. Because evaluating practicability is generally the more difficult aspect of the alternatives analysis, this approach should save time and effort for both the applicant and the regulatory agencies.[1] By initially focusing the alternatives analysis on the question of impacts on the aquatic ecosystem, it may be possible to limit (or in some instances eliminate altogether) the number of alternatives that have to be evaluated for practicability.

(iii) When it is determined that there is no identifiable or discernible difference in adverse impact on the environment between the applicant's proposed alternative and all other practicable alternatives, then the applicant's alternative is considered as satisfying the requirements of Section 230.10(a).

(iv) Even where a practicable alternative exists that would have less adverse impact on the aquatic ecosystem, the Guidelines allow it to be rejected if it would have "other significant adverse environmental consequences." 40 CFR 230.10(a). As explained in the preamble, this allows for consideration of "evidence of damages to other ecosystems in deciding whether there is a 'better' alternative." Hence, in applying the alternatives analysis required by the Guidelines, it is not appropriate to select an alternative where minor impacts on the aquatic environment are avoided at the cost of substantial impacts to other natural environmental values.

(v) In cases of negligible or trivial impacts (e.g., small discharges to construct individual driveways), it may be possible to conclude that no alternative location could result in less adverse impact on the aquatic environment within the meaning of the Guidelines. In such cases, it may not be necessary to conduct an offsite alternatives analysis but instead require only any practicable onsite minimization.

This guidance concerns application of the Section 404(b)(1) Guidelines to projects with minor impacts. Projects which may cause more than minor impacts on the aquatic environment, either individually or cumulatively, should be subjected to a proportionately more detailed level of analysis to determine compliance or noncompliance with the Guidelines. Projects which cause substantial impacts, in particular, must be thoroughly evaluated through the standard permit evaluation process to determine compliance with all provisions of the Guidelines.

b. Relationship between the Scope of Analysis and the Scope/Cost of the Proposed Project: The Guidelines provide the Corps and EPA with discretion for determining the necessary level of analysis to support a conclusion as to whether or not an alternative is practicable. Practicable alternatives are those alternatives that are "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes." 40 CFR 230.10(a)(2). The preamble to the Guidelines provides clarification on how cost is to be considered in the determination of practicability:

[1] In certain instances, however, it may be easier to examine practicability first. Some projects may be so site-specific (e.g., erosion control, bridge replacement) that no offsite alternative could be practicable. In such cases the alternatives analysis may appropriately be limited to onsite options only.

Our intent is to consider those alternatives which are reasonable in terms of the overall scope/cost of the proposed project. The term economic [for which the term "cost" was substituted in the final rule] might be construed to include consideration of the applicant's financial standing, or investment, or market share, a cumbersome inquiry which is not necessarily material to the objectives of the Guidelines.

Guidelines Preamble, "Alternatives", 45 FR 85339 (December 24, 1980) (emphasis added).

Therefore, the level of analysis required for determining which alternatives are practicable will vary depending on the type of project proposed. The determination of what constitutes an unreasonable expense should generally consider whether the projected cost is substantially greater than the costs normally associated with the particular type of project. Generally, as the scope/cost of the project increases, the level of analysis should also increase. To the extent the Corps obtains information on the costs associated with the project, such information may be considered when making a determination of what constitutes an unreasonable expense.

The preamble to the Guidelines also states that "[i]f an alleged alternative is unreasonably expensive to the applicant, the alternative is not 'practicable.'" Guidelines Preamble, "Economic Factors", 45 FR 85343 (December 24, 1980). Therefore, to the extent that individual homeowners and small businesses may typically be associated with small projects with minor impacts, the nature of the applicant may also be a relevant consideration in determining what constitutes a practicable alternative. It is important to emphasize, however, that it is not a particular applicant's financial standing that is the primary consideration for determining practicability, but rather characteristics of the project and what constitutes a reasonable expense for these projects that are most relevant to practicability determinations.

4. The burden of proof to demonstrate compliance with the Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued. 40 CFR 230.12(a)(3)(iv).

5. A reasonable, common sense approach in applying the requirements of the Guidelines' alternatives analysis is fully consistent with sound environmental protection. The Guidelines clearly contemplate that reasonable discretion should be applied based on the nature of the aquatic resource and potential impacts of a proposed activity in determining compliance with the alternatives test. Such an approach encourages effective decisionmaking and fosters a better understanding and enhanced confidence in the Section 404 program.

6. This guidance is consistent with the February 6, 1990 "Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army Concerning the Determination of Mitigation under the Clear Water Act Section 404(b)(1) Guidelines."

Signed 8–23–93:

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency.

Signed 8–23–93:

Michael L. Davis,

Office of the Assistant Secretary of the Army (Civil Works), Department of the Army.

Memorandum to the Field

Subject: Establishment and use of wetland mitigation banks in the Clean Water Act section 404 regulatory program.

1. This memorandum provides general guidelines for the establishment and use of wetland mitigation banks in the Clean Water Act Section 404 regulatory program. This memorandum serves as interim guidance pending completion of Phase I of by the Corps of Engineers' Institute for Water Resources study on wetland mitigation banking[2], at which time this guidance will be reviewed and any appropriate revisions will be incorporated into final guidelines.

2. For purposes of this guidance, wetland mitigation banking refers to the restoration, creation, enhancement, and, in exceptional circumstances, preservation of wetlands or other aquatic habitats expressly for the purpose of providing compensatory mitigation in advance of discharges into wetlands permitted under the Section 404 regulatory program. Wetland mitigation banks can have several advantages over individual mitigation projects, some of which are listed below:

(a) Compensatory mitigation can be implemented and functioning in advance of project impacts, thereby reducing temporal losses of wetland functions and uncertainty over whether the mitigation will be successful in offsetting wetland losses.

(b) It may be more ecologically advantageous for maintaining the integrity of the aquatic ecosystem to consolidate compensatory mitigation for impacts to many smaller, isolated or fragmented habitats into a single large parcel or contiguous parcels.

(c) Development of a wetland mitigation bank can bring together financial resources and planning and scientific expertise not practicable to many individual mitigation proposals. This consolidation of resources can increase the potential for the establishment and long-term management of successful mitigation.

(d) Wetland mitigation banking proposals may reduce regulatory uncertainty and provide more cost-effective compensatory mitigation opportunities.

3. The Section 404(b)(1) Guidelines (Guildelines), as clarified by the "Memorandum of Agreement Concerning the Determination of Mitigation under the Section 404(b)(1) Guidelines" (Mitigation MOA) signed February 6, 1990, by the Environmental Protection Agency and the Department of the Army, establish a mitigation sequence that is used in the evaluation of individual permit applications. Under this sequence, all appropriate and practicable steps must be undertaken by the applicant to first avoid and then minimize adverse impacts to the aquatic ecosystem. Remaining unavoidable impacts must then be offset through compensatory mitigation to the extent appropriate and practicable. Requirements for compensatory mitigation may be satisfied through the use of wetland mitigation banks, so long as their use is consistent with standard practices for evaluating compensatory mitigation proposals outlined in the Mitigation MOA. It is important to emphasize that, given mitigation sequence requirements described above, permit applicants should not anticipate that the establishment of, or participation in, a wetland mitigation bank will ultimately lead to a determination of compliance with the Section 404(b)(1) Guidelines without adequate demonstration that impacts associated with the proposed discharge have been avoided and minimized to the extent practicable.

4. The agencies' preference for on-site, in-kind compensatory mitigation does not preclude the use of wetland mitigation banks where it has been determined by the Corps, or other appropriate permitting agency, in coordination with the Federal resource agencies through the standard permit evaluation process, that the use of a particular mitigation bank as compensation for proposed wetland impacts would be appropriate for offsetting impacts to the aquatic ecosystem. In making such a determination, careful consideration must be given to wetland functions, landscape position, and affected species populations at both the impact and mitigation bank sites. In addition, compensation for wetland impacts should occur, where appropriate and practicable, within the same watershed as the impact site. Where a mitigation bank is being developed in conjunction with a wetland resource planning initiative (e.g., Special Area Management Plan, State Wetland Conservation Plan) to satisfy particular wetland restoration objectives, the permitting agency will determine, in coordination with the Federal resource agencies, whether use of the bank should be considered an appropriate form of compensatory mitigation for impacts occurring within the same watershed.

5. Wetland mitigation banks should generally be place and functional before credits may be used to offset permitted wetland losses. However, it may be appropriate to allow incremental distribution of credits corresponding to the appropriate stage of successful establishment of wetland functions. Moreover, variable mitigation ratios (credit acreage to impacted wetland acreage) may be used in such circumstances to reflect the wetland functions attained at a bank site at a particular point in time. For example, higher ratios would be required when a bank is not yet fully functional at the time credits are to be withdrawn.

6. Establishment of each mitigation bank should be accompanied by the development

[2] The Corps of Engineers Institute for Water Resources, under the authority of section 307(d) of the Water Resources Development Act of 1990, is undertaking a comprehensive two-year review and evaluation of wetland mitigation banking to assist in the development of a national policy on this issue. The interim summary report documenting the results of the first phase of the study is scheduled for completion in the fall of 1993.

of a formal written agreement (e.g., memorandum of agreement) among the Corps, EPA, other relevant resource agencies, and those parties who will own, develop, operate or otherwise participate in the bank. The purpose of the agreement is to establish clear guidelines for establishment and use of the mitigation bank. A wetlands mitigation bank may also be established through issuance of a Section 404 permit where establishing the proposed bank involves a discharge of dredged or fill material into waters of the United States. The banking agreement or, where applicable, special conditions of the permit establishing the bank should address the following considerations, where appropriate:

(a) Location of the mitigation bank
(b) Goals and objectives for the mitigation bank projects;
(c) Identification of bank sponsors and participants;
(d) Development and maintenance plan;
(e) Evaluation methodology acceptable to all signatories to establish bank credits and assess bank success in meeting the project goals and objectives;
(f) Specific accounting procedures for tracking crediting and debiting;
(g) Geographic area of applicability;
(h) Monitoring requirements and responsibilities;
(i) Remedial action responsibilities including funding; and
(j) Provisions for protecting the mitigation bank in perpetuity.

Agency participation in a wetlands mitigation banking agreement may not, in any way, restrict or limit the authorities and responsibilities of the agencies.

7. An appropriate methodology, acceptable to all signatories, should be identified and used to evaluate the success of wetland restoration and creation efforts within the mitigation bank and to identify the appropriate stage of development for issuing mitigation credits. A full range of wetland functions should be assessed. Functional evaluations of the mitigation bank should generally be conducted by a multi-disciplinary team representing involved resource and regulatory agencies and other appropriate parties. The same methodology should be used to determine the functions and values of both credits and debits. As an alternative, credits and debits can be based on acres of various types of wetlands (e.g., National Wetland Inventory classes). Final determinations regarding debits and credits will be made by the Corps, or other appropriate permitting agency, in consultation with Federal resource agencies.

8. Permit applicants may draw upon the available credits of a third party mitigation bank (i.e., a bank developed and operated by an entity other than the permit applicant). The Section 404 permit, however, must state explicitly that the permittee remains responsible for ensuring that the mitigation requirements are satisfied.

9. To ensure legal enforceability of the mitigation conditions, use of mitigation bank credits must be conditioned in the Section 404 permit by referencing the banking agreement or Section 404 permit establishing the bank; however, such a provision should not limit the responsibility of the Section 404 permittee for satisfying all legal requirements of the permit.

Signed 8–23–93:

Robert H. Wayland, III,

Director, Office of Wetland, Oceans, and Watersheds, U.S. Environmental Protection Agency.

Signed 8–23–93:

Michael L. Davis,

Office of the Assistant Secretary of the Army (Civil Works), Department of the Army.

[FR Doc. 93–22172 Filed 9–9–93; 8:45 am]

BILLING CODE 3710–92–M

Department of the Navy

Record of Decision for Base Realignment of Dahlgren Division, Naval Surface Warfare Center, Dahlgren, VA

Pursuant to section 102(2) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations on Implementing NEPA Procedures (40 CFR parts 1500–1508), the Department of the Navy announces its decision to construct new facilities and renovate existing facilities in support of the realignment of Dahlgren Division, Naval Surface Warfare Center (NSWCDL) at Dahlgren, Virginia. The realignment and relocation of the operations and associated personnel from Silver Spring, Maryland; Panama City, Florida; and San Diego, California, is to be implemented as a matter of law under the Defense Base Closure and Realignment Act of 1990. The facilities will accommodate those research and development operations at NSWCDL.

Draft and Final Environmental Impact Statement (DEIS/FEIS) were prepared by the Navy and distributed to federal and state agencies and elected officials, and to the interested public for review and comment.

The Navy will accommodate most of the programs and the majority of the approximately 906 associated personnel in sixteen existing buildings. Due to the need to satisfy unique space requirements not available in existing structures, the Navy will construct a 171,000 square foot laboratory in the northeast corner of the base, and demolish four existing structures currently on the site. There will also be modifications to B Gate off of Route 301 to accommodate the increased flow of traffic to and from the new laboratory.

With the anticipated increase in personnel due to the realignment, the Navy will upgrade its existing sewage treatment plant from a design capacity of 400,000 gallons per day (gpd) to 600,000 gpd, and upgrade the sewer pipeline that extends to the site of the new laboratory. Construction of the upgrades will require demolition of nine structures, which will be replaced by construction of a 17,200 square foot addition to Building 182, located just north of the site of the upgraded sewage treatment plant. Contaminated material at the site of the existing sewage treatment plant due to wastewater discharges from a former electroplating operation will be removed pursuant to an existing Federal Facility Compliance Agreement. The upgraded sewage treatment plant will continue to discharge into Upper Machodoc Creek. Wetlands will be constructed as part of the tertiary treatment process. A portion of the constructed wetlands will be located in the floodplain. The elevation of the constructed wetlands will exceed the elevation of the base flood level, however. No structural or mechanical components of the upgraded sewage treatment plant will be located within the floodplain. The Navy considered several site alternatives for construction of the laboratory. The preferred site was selected, however, because it was not constrained by explosive safety quantity distance arcs, safety zones, airfield approach/transition zones, contaminated sites, floodplains, wetlands, and bald eagle nesting areas. Other unconstrained sites were eliminated from consideration because of the cost of extensive demolition and upgrades to the utility and roadway systems.

The Navy considered both site and process alternatives for construction of the upgraded sewage treatment plant. The selected site plan gains maximum utilization of existing plant components while avoiding wetlands and an Installation Restoration site. The existing sewage treatment plant can also continue operating while the upgrades are being constructed. The Navy eliminated the alternative of combining sewage treatment capabilities with King George County at an off-base facility because of excessive cost and appropriation and construction completion could not occur by the Navy's deadline of January, 1995.

A no action alternative was not considered because the Defense Base Closure and Realignment Act exempts from the NEPA process the consideration of both the need for realigning the military installation as directed by the Commission, and the need for transferring functions to the designated receiving installation. All practicable means to avoid or minimize environmental harm from this action have been adopted. Sites for the

laboratory, the sewer pipeline, the addition to Building 182, and modifications to B Gate have been selected to avoid impacts to wetlands, floodplains, threatened or endangered plant or wildlife species, cultural resources, coastal zone protection areas, and areas of environmental contamination.

Although the upgraded sewage treatment plant will treat more waste, it will meet or surpass current and anticipated future Virginia Pollutant Discharge Elimination System permit requirements for sewage treatment plants.

Buildings that will be renovated have been or will be evaluated to determine if the structures are eligible for listing on the National Register of Historic Places. One building has been determined to be eligible as a contributing structure to a National Register District. However, renovation will not adversely effect the building since renovation will be conducted on the interior only.

A soil erosion and sediment control plan and a stormwater management plan will be prepared prior to construction, and monitored throughout construction. Any hazardous material in buildings that will be demolished or renovated, such as asbestos-containing building materials, will be properly removed and disposed.

Impacts associated with the relocation of 906 personnel and their families have been addressed and thoroughly coordinated with the state and local governments and agencies. The influx of personnel will increase the demand for community services, schools, housing, infrastructure, and utilities, and impact traffic congestion in the area. Demand will likely be distributed throughout several counties within commuting distance of the NSWCDL. Demand for community services, housing, infrastructure, and utilities in the surrounding communities is not anticipated to be significant. Several schools in the area are at or near capacity, but capital improvements have been proposed by the school districts for these schools. Positive impacts from the relocation include the generation of an estimated 2,058 direct and indirect jobs, and an estimated $125.5 million in economic growth. Local and state governments will benefit from increased taxes and revenues.

Traffic congestion around NSWCDL will increase, particularly during rush hours. Although modifications to B Gate will lessen the traffic impacts on-base, additional mitigative measures off-base to alleviate or lessen the potential impacts will need to be coordinated and implemented by the Virginia Department of Transportation.

Comments received from agencies and the public on the DEIS included concerns about natural resources protection, Upper Machodoc Creek water quality, floodplain mitigation, air quality, affordable housing, hazardous materials and waste, electromagnetic field exposure, traffic, construction-related noise, historic and cultural resources, and solid waste. All issues were addressed in the FEIS.

Questions regarding the Draft and Final Environmental Impact Statement prepared for this action may be directed to U.S. Department of the Navy, Chesapeake Division, Naval Facilities Engineering Command, 901 M Street, SE., Building 212, Washington, DC 20374–5018 (ATTN: Mr. Larry Chernikoff), telephone (202) 433–3387.

Dated: September 7, 1993.

Elsie L. Munsell,

Deputy Assistant Secretary of the Navy (Environment and Safety).

Dated: September 7, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–22127 Filed 9–9–93; 8:45 am]

BILLING CODE 3810–AE–M

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Disposal and Reuse of Naval Construction Battalion Center Davisville, North Kingstown, RI

Pursuant to the National Environmental Policy Act (NEPA) as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500-1508), the Department of the Navy announces its intent to prepare a Draft Environmental Impact Statement (DEIS) to evaluate the environmental effects of the disposal and reuse of the Naval Construction Battalion Center (NCBC), Davisville, North Kingstown, Rhode Island.

In accordance with recommendations of the 1991 Base Closure and Realignment Commission, the Navy plans to disestablish NCBC Davisville in March 1994. Operations conducted at NCBC Davisville are currently relocating to other NCBC's located in the continental United States. The proposed action involves the disposal of land, buildings, and infrastructure of NCBC Davisville for subsequent reuse.

NCBC Davisville consists of a total of 1,267.27 acres, including all lands on the main base, West Davisville, and Camp Fogarty. Camp Fogarty has been transferred to the Department of the Army for use by the Rhode Island National Guard and therefore is not part of the proposed action. NCBC Davisville and the West District have a combined total of 237 buildings and structures including 62 permanent, 161 semi-permanent, and 14 temporary facilities.

NCBC Davisville is located in the Town of North Kingstown eighteen miles south of the City of Providence in the County of Washington. The West Davisville Storage Area, (also known as "West District") located approximately one mile west of the main center, is a non-contiguous area consisting of approximately 50 acres and contains four large warehouses providing 800,000 sf of storage space.

The reuse of NCBC Davisville is being studied by an independent Base Reuse Committee (BRC) comprised of state and local governmental agencies and private citizens. The redevelopment/reuse plan to be developed by the BRC will be the basis for the DEIS. Various reuse alternatives will be developed during the scoping process and analyzed to provide facilities and/or building sites for potential users. The "no action" alternative, Navy retention of NCBC Davisville land and infrastructure in caretaker status, will be addressed in the EIS.

However, because of the process mandated by the Base Closure and Realignment Act, selection of the "no action" alternative would be considered outside the jurisdiction of the Navy.

The DEIS to be prepared by the Navy will address the following known areas of concern: effects of new development at the Center on the natural and socioeconomic environments, effects of future growth on area schools, recreation facilities, and transportation systems. Major environmental issues that will be addressed in the EIS include, but are not limited to, air quality, water quality, wetlands, endangered species, cultural resources, transportation, and socioeconomic impacts.

The Navy and the BRC will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to the proposed reuse alternatives. A public scoping meeting is scheduled for Tuesday, September 28, 1993, beginning at 7:30 p.m., at the North Kingstown High School Auditorium, 150 Fairway, North Kingstown, Rhode Island. This meeting will be advertised in local newspapers.

A brief presentation will precede request for public comment. Navy representatives will be available at this

meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the DEIS. In the interest of available time, each speaker will be asked to limit their oral comments to five minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than October 28, 1993, to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Code 202, 10 Industrial Highway, Lester, PA 19113 (Attn: Mr. Bob Ostermueller, Code 2022), telephone (215) 595–0759.

Dated: September 7, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–22125 Filed 9–9–93; 8:45 am]

BILLING CODE 3810–AE–M

Public Hearing for the Draft Environmental Impact Statement for the Management of Air Operations at Naval Air Station Whidbey Island, Oak Harbor, WA

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for the Management of Air Operations at Naval Air Station Whidbey Island, Oak Harbor, Washington.

The DEIS has been distributed to various federal, state, and local agencies, elected officials, special interest groups, and the media. A limited number of single copies are available at the address listed at the end of this notice.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on September 29, 1993, at 7 p.m. in the Oak Harbor High School Commons Area, Oak Harbor, Washington.

The public hearing will be conducted by the Navy. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

In the interest of available time, each speaker will be asked to limit their oral comments to three minutes. Because of the large number of speakers expected, we will not be able to permit a speaker to defer speaking time to another speaker. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed to the address listed at the end of this announcement. All written statements must be postmarked by October 12, 1993, to become part of the official record.

The DEIS addresses the Navy's proposal to modify previous air operations management programs to incorporate specific flight pattern redistribution, aircraft operations guidelines, and an annual Field Carrier Landing Practice (FCLP) operations distribution goal between the existing field assets of Ault Field and Outlying Landing Field (OLF) Coupeville. This proposal meets the Navy's need to provide effective environmental compliance while planning for and meeting assigned military mission requirements necessary to ensure fleet readiness and aircrew proficiency. The DEIS addresses air operations management changes which can mitigate adverse environmental effects of air operations. Discussed are the issues of air traffic, noise, public health and safety of air operations, land use, population and housing, aesthetics, socioeconomics, historic resources, slope stability, air quality, water quality, and biological resources. Alternatives assessed in the DEIS focus on various distributions of FCLP training between Ault Field and OLF Coupeville, with all other air operations conducted at Ault Field.

Additional information concerning this notice may be obtained by contacting: Mr. Peter Havens (Code 203PH), Engineering Field Activity, Northwest, Naval Facilities Engineering Command, 3505 NW. Anderson Hill Road, Silverdale, WA 98383, telephone (206) 396–5976.

Dated: September 7, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–22126 Filed 9–9–93; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 12, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these

requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: September 7, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Reinstatement

Title: Application for the Drug Prevention Program of the Fund for the Improvement of Postsecondary Education

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden: Responses: 400, Burden Hours: 6,400

Recordkeeping Burden: Recordkeepers: 0, Burden Hours: 0

Abstract: The Secretary of Education is authorized under Public Law 99–570 to hold competitions to develop, implement, operate, and improve drug prevention programs. Competitions require that applicants submit applications which compete for funding. Respondents are institutions of higher education requesting funds.

Office of Vocation and Adult Education

Type of Review: Extension

Title: Performance Report for State-Administered Vocational-Technical Education Programs

Frequency: Annually

Affected Public: State or local governments

Reporting Burden: Responses: 53, Burden Hours: 2,756

Recordkeeping Burden: Recordkeepers: 0, Burden Hours: 0

Abstract: This report will identify students served in all the State Vocational-Technical education systems with emphasis on special populations, States in need of technical assistance to improve services to students, and to provide trend data to demonstrate the effectiveness of vocational-technical education in meeting the needs of youths and adults.

[FR Doc. 93–22206 Filed 9–9–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center, Study of Utilization of Coal Combustion Byproducts

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

ACTION: Notice of interest to obtain information to assist the Department of Energy's study of utilization of coal combustion byproducts.

SUMMARY: The Energy Policy Act of 1992 directed the Secretary of the Department of Energy (DOE) to conduct a comprehensive study on the institutional, legal, and regulatory barriers to increased use of coal combustion byproducts by potential governmental and commercial users. Information is requested from interested parties to ensure that all barriers are identified and that adequate consideration is given to issues inhibiting coal combustion byproduct utilization. The specific form and content of the informational data to be submitted is left to the discretion of the submitting organization, although the informational data must be relevant and should be concise (i.e. 10 pages or less). Any information submitted in response to this notice shall be prepared at the submitters expense. The DOE is not obligated, and will not reimburse, any submitter for expenses incurred in the preparation or submittal of information.

DATES: Information shall be provided no later than September 24, 1993 to Mr. Jerry L. Harness at the address provided below.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry L. Harness, E02, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone (304) 291–4835.

SUPPLEMENTARY INFORMATION: "Coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. Information is requested from interested parties to ensure that all barriers are identified and consideration is given to issues inhibiting coal combustion byproduct utilization. Information on barriers which exist at the Federal, State, or local levels, which may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized, is requested. Information on barriers which inhibit the use of coal combustion byproducts in applications such as: Bridge and highway construction stabilizing wastes; procurement by departments and agencies of the Federal Government and State and local governments; and federally funded or federally subsidized procurement by the private sector is requested.

Dated: September 1, 1993.

John S. Wilson,

Acting Director, Morgantown Energy Technology Center.

[FR Doc. 93–22200 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

Opportunity for Additional Public Comment, Environmental Impact Statement on Environmental Restoration and Waste Management Activities at the Idaho National Engineering Laboratory; Correction

AGENCY: Department of Energy—Idaho Operations Office.

ACTION: Correction notice.

SUMMARY: Today's notice adds a paragraph that was inadvertently omitted from the Friday, September 3, 1993 (58 FR 46951) publication of a Notice of Opportunity for Additional Public Comment, Environmental Impact Statement (EIS) on Environmental Restoration and Waste Management (ER&WM) Activities at the Idaho National Engineering Laboratory (INEL).

SUPPLEMENTARY INFORMATION: The following paragraph should be inserted on page 46953, second column, before the paragraph that begins "As indicated by the preceding discussion * * *": "Because DOE proposes to analyze the maximum potential cumulative impacts of accepting spent nuclear fuel (SNF) from foreign research reactors (FRR) in the INEL ER&WM EIS and to analyze the pending proposal to accept such SNF in a separate EIS, no decision concerning the transporting, receipt, processing, and storage of SNF from FRR at the INEL will be made until both of these EISs are completed."

Issued in Washington, DC, September 3, 1993.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 93–22196 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

Award of a Cooperative Agreement, Noncompetitive Financial Assistance; Electric Power Research Institute

AGENCY: U.S. Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Richland Operations Office (DOE/RL) announces that pursuant to House Report 2427, Public Law 102–104, it intends to make a statutory financial assistant award based on the criterion set forth in 10 CFR 600.7(b)(2)(i) (B) and (G) to the Electric Power Research Institute (EPRI), Palo Alto, California, under Cooperative Agreement Number DE–FC06–93RL12450. The primary purpose of the cooperative agreement is the design of a spent fuel dry transfer system for use with a transportable storage unit. This five year effort will have a total estimated cost of $1,528,000, of which $698,000 will be provided by DOE and $830,000 will be provided by EPRI.

FOR FURTHER INFORMATION CONTACT: Questions regarding this announcement should be addressed to the U.S. Department of Energy, Richland Operations Office, Procurement Division, Mail Stop A7–80, P.O. Box 550, 825 Jadwin Avenue, Richland, Washington 99352, ATTN: Jo Lauglin, Contract Specialist.

SUPPLEMENTARY INFORMATION: Congress has appropriated $8 million ($4 million each in FY 1992 and FY 1993) for the Department of Energy (DOE) to implement a cooperative research and development project to demonstrate the dry transfer of spent unclear fuel from one transportable storage system to another. Public Law 102–104 initiated the project and refers to an implementation plan developed in response to prior direction given to DOE by Congress. The prior direction indicated that the project was to be pursued in cooperation with a west coast utility which has a nuclear reactor prematurely shut down due to a citizens' initiative (the Rancho Seco reactor owned by the Sacremento Municipal Utility District). The plan identified the Electric Power Research Institute (ERPI) and the Sacramento Municipal Utility District (SMUD) as participants with DOE in the project. The plan indicates that ERPI is to complete the detailed design of an acceptable spent fuel dry transfer system. EPRI is to provide the detailed design including procurement specifications and Nuclear Regulatory Commission (NRC) licensing support to DOE. SMUD is to procure and demonstrate two NRC licensed transportable storage units and a spent fuel dry transfer system. In the context of the Congressional guidance, eligibility to participate in the project is restricted to EPRI and SMUD. Successful completion of the cooperative projects will result in an NRC licensed transportable storage system, and a NRC licensable spent fuel dry transfer system. Successful completion of the project is expected to provide valuable information on the cost and operation of a spent fuel dry transfer system applicable to the federal waste disposal system, and should provide utilities with an option to allow decommissioning of their storage pools prior to final transfer of fuel from their ISFSI to the federal waste system. It will also provide valuable NRC licensing experience associated with spent fuel dry transfer systems and for transportable storage systems.

Dated: August 27, 1993.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 93–22197 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

Determination of Noncompetitive Financial Assistance; North Carolina Agriculture and Technical State University

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b)(2)(i) it intends to award on a noncompetitive basis a grant to North Carolina Agriculture and Technical (A&T) State University for performing research on continuous fiber ceramic composites under a grant entitled "The Effect of Sample Size and Finish on the Tensile Characteristics of Continuous Filament Ceramic Composites." The award is to be in the amount of $100,000 for a one-year period. The goal of the Continuous Fiber Ceramic Composite (CFCC) Program is to develop primary processing methods for the reliable and cost-effective fabrication of components for use in industrial applications. North Carolina A&T State University will test a specified number of CFCC tensile specimens offering valuable information to the CFCC Program. Similar work has been performed at North Carolina A&T over the past few years and has been very successful. In consideration of the fact that North Carolina A&T State University has outstanding technical expertise and unique facilities in the area of ceramic/ceramic composites testing, eligibility for this award is restricted to North Carolina A&T State University.

FOR FURTHER INFORMATION CONTACT: Mary Harris, ER–111, Energy Programs Division, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831–6269, (615) 576–4507.

Issued in Oak Ridge, Tennessee on August 23, 1993.

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Operations Office.

[FR Doc. 93–22198 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

Alaska Power Administration

Eklutna Project Draft Power Marketing Plan

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of draft marketing plan, public information and comment forum, and opportunity for review and comment.

SUMMARY: Alaska Power Administration (APA) is publishing its Draft Marketing Plan—Eklutna Project to start the process to establish new allocations of power and long-term power sales contracts for the Eklutna Project. The new contracts will replace contracts which have been in place since 1979 and which expire at the end of December 1994. APA is publishing the draft plan to provide an opportunity for public review and comment. The Marketing Plan and the new contracts will be fully compatible with the Department of Energy legislative proposal on APA divestiture.

DATES: Written comments must be submitted on or before October 12, 1993.

A public information and comment forum will be held Thursday, September 30, 1993, 7 p.m., at the Z.J. Loussac Library in Anchorage, Alaska.

ADDRESSES: Written comments should be submitted to: Mr. Michael Deihl, Alaska Power Administration, 2770 Sherwood Lane, suite 2B, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Linke, Alaska Power Administration, 2770 Sherwood Lane, suite 2B, Juneau, Alaska 99801, (907) 586–7405.

SUPPLEMENTARY INFORMATION:

Draft Marketing Plan—Eklutna Project

A. General

APA is establishing new allocations of power and long-term power sales contracts for the Eklutna Project. The new contracts will replace contracts which have been in place since 1979 and which expire at the end of December 1993. APA is in the process

of temporarily extending the current contracts one year, until the end of December 1994. During this one year period, APA will complete finalizing of the marketing plan, grant new power allocations and establish new long-term power sales contracts.

The Eklutna Project authorization (64 Stat. 382) establishes the general criteria for marketing project power and energy. This marketing plan describes APA's implementation policies for these legislated marketing criteria.

Department of Energy (DOE) regulations for the National Environmental Policy Act (NEPA) require that an Environmental Assessment (EA) be prepared for long-term power sales contracts. APA has prepared an EA. DOE has approved the EA, and a Finding of No Significant Impact has been signed.

APA has an agreement with Anchorage Water and Wastewater Utility (AWWU) for diversion of water from Eklutna Lake for municipal drinking water. These diversions are under a separate long-term agreement between APA and AWWU. This plan will not alter the agreement with AWWU.

B. Background

APA markets power and energy from the Eklutna Project. The project was authorized by Congress in 1950. Construction of the project was completed by the U.S. Bureau of Reclamation in 1955. Since construction, Eklutna has served three customer utilities in the Anchorage/Matanuska Valley area: Anchorage Municipal Light and Power (ML&P), Chugach Electric Association (CEA), and Matanuska Electric Association (MEA). At the time it was completed, the Eklutna Project provided about 30% of the Anchorage area electrical supply. Since that time, the area has grown to the point that the project now provides approximately 5% of the area's electrical energy. In 1986 the Federal government formally proposed the sale of the Eklutna Project. A purchase agreement for the Eklutna Project was negotiated and signed with the three customer utilities in 1989. The divestiture of the Federal project will be submitted for Congressional consideration and approval this year.

The Marketing Plan and the subsequent power sales contracts will be compatible with the divestiture proposal. Under terms of the Eklutna Purchase Agreement, the new owners will take over APA's rights and allocation obligations under the new power sales contracts when they acquire ownership of the project.

C. Objectives

The objectives of this plan are to establish the criteria and process for allocating power from APA's Eklutna Project in accordance with provisions set forth in the Eklutna Project authorizing legislation. Such provisions include instructions to market power so as to (1) encourage the most widespread use; (2) do so at lowest possible rates to consumers consistent with sound business principles; and (3) give preference to Federal agencies, public bodies, and cooperatives. An additional objective of the plan is to facilitate implementation of the divestiture if and when Congress approves the measure.

D. Marketable Resources

This plan shall become effective on approval by Alaska Power Administration's (APA) Administrator and will apply to all power marketed by APA from the Eklutna Project.

The energy production and generation capacity from the Eklutna Project is:

Firm energy—153 Gwh
Capacity—30 MW

The marketable resource was derived from the capacity of the Eklutna Project based on average hydrologic conditions. Project requirements such as project use and transmission losses have been subtracted from this.

E. Market Area

The market area for power from the Eklutna Project is the Anchorage/Matanuska Valley area, i.e. the area served by ML&P, CEA, and MEA.

F. Classes of Service

APA offers long-term firm energy with capacity. APA will market average energy as firm energy. Any portion of a contractor's allocation which cannot be delivered by APA due to hydrologic conditions may be carried over to the following year. APA offers no commitment which would require APA to purchase energy or capacity.

G. Proposed Allocations

Since construction of the Project, APA has served the three customer utilities with the same allocations of energy and capacity. Due to the relatively small size of the Eklutna Project and the limited nature of the resource, APA proposes to retain the existing allocations:

1. Anchorage Municipal Light & Power.	81.6 gWh	16 MW
2. Chugach Electric Association.	45.9 gWh	9 MW
3. Matanuska Electric Association.	25.5 gWh	5 MW
Total	153 gWh	30 MW

All are preference customers within the market area. There is no new resource available from the Eklutna Project for increased allocations to existing customers or allocations to new customers. This allocation is consistent with the divestiture purchase agreement which provides for sale and ownership of the project to these three utilities in this ratio.

H. Integrated Resource Planning

The electric service contracts will contain provisions that will incorporate the Eklutna Project resources in the overall resource planning of the area. This will allow for better utilization of the Eklutna Project's resources, and at the same time minimize the additional resources that may be needed in the area.

I. Contract Arrangements

Entitles receiving an allocation of Eklutna resources will be offered an electric service contract for the allocated resource based on this plan. Consideration will be given to contract terms of up to twenty years and that include "take or pay" provisions, a flat fee provision, or other arrangements subject to the integrity of the project and availability of the resource.

Delivery points will be on the Eklutna transmission system. Normal delivery will be made at Eklutna transmission voltages. Deliveries may continue to be made at subtransmission voltages at powerplant, substation, and tap locations where contractors already have systems operating at such lower voltage levels.

All costs for delivery of energy beyond the Eklutna transmission system will be the responsibility of the contractor.

J. Reallocations

Resources made available for marketing because an allocation(s) has been reduced or withdrawn may be administratively reallocated by APA's Administrator without further public process.

Issued at Juneau, Alaska; August 12, 1993.

Michael A. Deihl,

Administrator.

[FR Doc. 93–22202 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 349–024 Alabama]

Alabama Power Co.; Availability of Environmental Assessment

September 3, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to amend the license for the Martin Dam Project to permit excavation of two slough areas by Mr. Roy Granger. The staff of OHL's Division of Project Compliance and Administration has prepared a Draft Environmental Assessment (EA) for the proposed action. In the Draft EA, staff concludes that approval after-the-fact of the proposal to excavate one slough with required mitigation, and denial to excavate a second slough is the preferred alternative and would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available at the Commission's Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426, telephone (202) 208–1371.

Agencies non-governmental organizations or individuals are invited to file comments pursuant to the requirements the National Environmental Policy Act of 1969 (NEPA) and the Commission's regulations implementing NEPA (18 CFR part 380). Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers should be supported by appropriate documentation.

An original and eight copies of the comments should be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The Comments should be filed by not later than September 15, 1993 and should reference Project 349–024.

Lois D. Cashell,

Secretary.

[FR Doc. 93–22076 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EL92–33–002, et al.]

Citizens Utilities Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 3, 1993.

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

1. Citizens Utilities Co.

[Docket No. EL92–33–002]

Take notice that on August 23, 1993, Citizens Utilities Company tendered for filing its compliance filing in the above referenced docket.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Co.

[Docket No. ER93–904–000]

Take notice that on August 27, 1993, New England Power Company (NEP), tendered for filing a service agreement for transmission service to the Chicopee (Mass.) Municipal Lighting Plant. Said service will be provided according to the rates, terms and conditions of NEP's FERC Electric Tariff, Original Volume No. 3, on file with the Commission.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Co.

[Docket No. ER93–899–000]

Take notice that on August 26, 1993, Duke Power Company (Duke) filed revised Amendments to Service Schedules C and E and the index and the Agreement to Adjust Demand Charge Pursuant to Schedule C. These service schedules are part of the Interconnection Agreement between Duke and Yadkin, Inc. (Yadkin) dated October 17, 1983, as amended. The revised Amendments will supersede the amendments dated 1989, as amended, currently in effect between Duke and Yadkin. The revised Amendment to Service Schedule C removes the floor price restriction for the demand charge and extends the date of termination to October 17, 1998. The revised Amendment to Service Schedule E extends the date of termination to October 17, 1998.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Co.

[Docket No. ER93–891–000]

Take notice that on August 24, 1993, Northeast Utilities Service Company (NUSCO), on behalf of the Connecticut Light and Power Company (CL&P) and The United Illuminating Company (UI) to be attached as an addendum to the transmission agreements between CL&P and UI designated as FPC Rate Schedule Nos. 15 (and Supplement No. 1), 103, 42, 17 and 16.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Power System Corp.

[Docket No. ER93–893–000]

Take notice that on August 25, 1993, Allegheny Power System Corporation (Allegheny) tendered for Notices of Cancellation of FERC Rate Schedule No. 98, 77 and 36.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Connecticut Yankee Atomic Co.

[Docket Nos. ER93–85–002 and EL93–7–000]

Take notice that on August 20, 1993, Connecticut Yankee Atomic Company tendered for filing its compliance report in the above referenced dockets.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Co.

[Docket No. ER93–842–000]

Take notice that on August 27, 1993, Portland General Electric Company (PGE) tendered for filing a Certificate of Concurrence under Docket No. ER93–842–000, relating to an agreement for transmission and firming services between Idaho Power Company (IPC) and Portland General Electric. Copies of this agreement have been served on the parties included in the distribution list defined in the filing letter.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Co. (Minnesota)

[Docket No. ER93–259–002]

Take notice that on August 25, 1993, Northern States Power Company (Minnesota) (NSP) tendered for filing an Amendment to Service Schedule B for Municipal Purchase for Resale Power—Summer Season between NSP and the Water, Light and Power Commission to the City of East Grand Forks, Minnesota (City). NSP Rate Schedule FERC No. 476.

NSP requests that revised Service Schedule B be accepted for filing effective January 1, 1993, and requests waiver of the Commission's notice requirements in order for the Service Schedule to be accepted for filing on the date requested.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Co.

[Docket No. ER93-903-000]

Take notice that on August 27, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing an agreement entitled "Special Facilities Agreement for Transmission Facilities for the Interconnection of NCPA's 49 MW STIG Project" (Special Facilities Agreement) between the Northern California Power Agency (NCPA) and PG&E.

The Special Facilities Agreement has been entered into pursuant to the NCPA and PG&E Interconnection Agreement, PG&E Rate Schedule FERC No. 142. The Special Facilities Agreement sets forth the rate, terms and conditions under which PG&E will design, install, own, operate and maintain the facilities for the interconnection of a new gas turbine generating plant owned by NCPA. Under the Special Facilities Agreement, PG&E proposes to charge NCPA a capital advance and monthly Cost of Ownership Charge, with the latter using the Cost of Ownership Rate for transmission-level, customer-financed facilities filed with the California Public Utilities Commission (CPUC) pursuant to PG&E's Electric Rule No. 2. The Cost of Ownership Rate is expressed as a monthly percentage of the installed cost of the facilities.

PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a revised Electric Rule No. 2 Cost of Ownership Rate, limited by a rate cap of 0.5% monthly.

Copies of this filing have been served upon NCPA and the CPUC.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Public Service Co.

[Docket Nos. EL91-56-002, EL91-56-003, ER92-774-004]

Take notice that on August 9, 1993, Maine Public Service Company (Maine) tendered for filing its refund report in the above-referenced dockets.

Comment date: September 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Oregon Trail Electric Consumers Cooperative, Inc.

[Docket No. ES93-48-000]

Take notice that on August 30, 1993, Oregon Trail Electric Consumers Cooperative, Inc. (Oregon Trail) filed an application under section 204 of the Federal Power Act requesting authorization:

(a) to issue a five-year promissory note in the amount of $3 million to replace a prior note issued by Oregon Trail, and

(b) to enter into and borrow funds under a five-year, $5 million line-of-credit agreement.

Also, Oregon Trail requests exemption from the Commission's competitive bidding regulations.

Comment date: September 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the 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. 93-22134 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

Chicago Operations Office; Solicitation for Cooperative Agreements

AGENCY: Chicago Operations Office, U.S. Department of Energy.

ACTION: Solicitation for cooperative agreements.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.9 intends to issue Solicitation No. DE-SC02-94CE1064, for Waste Reduction in the Metals and Pulp and Paper Industries on September 3, 1993.

DATES: Applications submitted in response to this Notice should be received by November 30, 1993.

FOR FURTHER INFORMATION CONTACT: To obtain a complete solicitation package, please contact Tanga Baylor, U.S. Department of Energy, Chicago Operations Office, Contracts Division, 9800 S. Cass Ave., Argonne IL 60439. Telephone (708) 252-2090.

SUPPLEMENTARY INFORMATION:

Program Title: Industrial Waste Reduction Program

Solicitation Number: DE-SC02-94CE41064

Citation of Authority: PL 95-91

U.S. Department of Energy (DOE), Office of Industrial Technologies, is planning to fund research and development for unique and innovative technologies in the areas of industrial processes, process changes, feedstock substitution, and/or product changes that will conserve energy while minimizing or reducing industrial waste material. For the purpose of this Solicitation, technologies include concepts, processes, and/or hardware. The term "innovative technology" will be used in a very broad sense and includes, but is not limited to, (1) development of new processes, materials, or products, (2) substitution of input materials or products, or (3) significant changes to existing manufacturing processes and operations, and (4) modification of final product. Applications with innovative technology applicable to more than one industry with enhanced energy savings potential are encouraged. Applications must meet the nominal U.S. national net energy savings goal of one trillion BTUs by fuel type per year by the year 2010. Waste reduction does not include waste heat, noise, electromagnetic radiation, nuclear radiation, lowering the level or degree that waste is toxic or hazardous, and those cross-media transfers (i.e. processes that convert waste material into different physical states such as from solid to liquid or gas) which are for the purpose of reducing the toxicity or hazardousness of the waste.

The focus of this effort will be on the metals industry and the pulp and paper industry, but industries in Standard Industrial Code (SIC) 1-39 will also be considered. Research and Development activities will be classified into four progressive phases. Phase I is "Exploratory Development", Phase II pertains to "Technology Development", Phase III is "Engineering Development" for pilot-scale and full-scale test, and Phase IV involves "Demonstration" to test and verify the potential for commercial application. Applicants may propose one or more of these phases. The proposed effort may be initiated at any phase if conclusive evidence is presented that the previous phase(s) have been completed successfully. This Solicitation will not fund work which falls within the categories "Basic Research" and "Commercialization". Basic research is defined as the investigation of fundamental understanding, creation of generic scientific knowledge, or establishment of technology base,

without known application. Commercialization is defined as production, marketing and sales of full-scale unit, or products of full-scale units.

Multiple awards are expected to be made in Fiscal Year (FY) 94 (possibly three to four Cooperative Agreements). The period of performance for these Cooperative Agreements may vary from several months up to 3–5 years, depending on the projects selected. Estimated DOE funding available is $3 million for FY 94, $4.5 million for FY 95, and $4.5 million for FY 96. A minimum of 50 percent cost sharing over the life of the project is required. Industrial participation or support by the affected industry is essential in all phases.

Complete solicitation packages will be available from DOE, Chicago Operations Office during the first week of September, 1993. The complete Solicitation package with information on application preparation, evaluation procedures and criteria, the extent of Government participation in the Cooperative Agreements to be awarded, and other required data will be available upon request during the time the Solicitation is open. Please note that both DOE and non-DOE evaluators will be used to evaluate applications. All responsible sources may submit an application which will be considered. Applications must be submitted to DOE, Chicago Operations office, no later than November 30, 1993. Please note that the Solicitation is being printed on recycled paper. All applicants are encouraged to use recycled paper. If you are interested in receiving a complete Solicitation package, contact the automated telephone service at 708/252–2090 or write to the above address, Attention: Tanga Baylor, Executive Secretary, Contracts Division. All responsible sources may submit an application which will be considered.

Issued in Chicago, Illinois on August 27, 1993.

Alan E. Smith,

Director, Operations Management Support Division.

[FR Doc. 93–22201 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

Golden Field Office; Grant Award to User Scale Applications—Photovoltaics, Inc.

AGENCY: Department of Energy.

ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy (DOE) pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14 is announcing its intention to award a cost sharing grant to User Scale Applications Photovoltaics, Inc. (USAPV) to develop marketing and business plans, develop standards, and generally develop and expand the use of photovoltaics (PV) in the United States.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden CO 80401, Attention: John W. Meeker, Contract Specialist. The Contracting Officer for this action is Dr. Paul K. Kearns.

SUPPLEMENTARY INFORMATION: DOE evaluated the unsolicited application in accordance with 10 CFR 600.14 and, based on this evaluation, it was recommended that the application submitted by USAPV be accepted for support.

The application was considered to be meritorious due to the fact that PV applications may allow utilities to increase the benefits and efficient use of existing capital investment in both transmission and distribution. Additionally, ideal insolation in the northeastern U.S. is coincident with most utility peak power demand periods. The project will incorporate a number of smaller PV projects aimed at solving operational problems and meeting distribution system peak demands by integrating PV technologies into the portfolio of products and services offered by the utilities of the Northeast. Finally, the project will help provide information to utilities that will accelerate PV deployment, achieving greater national energy independence while minimizing impact to the environment.

The objectives of the project are:

(1) To develop the necessary marketing business plans and regulatory framework (pricing, etc.) required to integrate PV technology into the portfolio of products and services offered by utilities to their customers;

(2) To develop the necessary standards for, and an understanding of PV technology such that PV becomes one of several solutions employed by utilities to solve operational problems and meet distribution system peak demands;

(3) To introduce at least 10 MW of new PV demand within the Pennsylvania—Jersey—Maryland Interconnection; to provide opportunities for utilities with little or no technical understanding of PV technology to gain a rapid understanding of applications as well as its benefits and constraints;

(4) To demonstrate a role for PV technology in the utilities' portfolios of demand-side management techniques;

(5) To identify and evaluate various methods of determining the value of benefits to all parties and their concomitant rate regulatory treatment for end-user located generation;

(6) To provide hands-on experience to increase awareness and education for utilities, businesses and consumers in the design, installation, maintenance and operation of small scale PV applications;

(7) To provide for greater knowledge of PV applications in the northeastern geographic area;

(8) To encourage the development of and utility sharing of standards and specifications for PV end-use distributed installations so as to encourage greater efficiencies and lower costs of PV technology;

(9) To document and disseminate knowledge gained from shared learning experiences for both business and utility purposes to accelerate technology transfer and application transfer;

(10) To provide high public visibility to applications to promote greater awareness and acceptance;

(11) To specifically promote applications with near cost effectiveness utilizing advanced PV technology; and

(12) To promote the integration of PV with existing available utility hardware, construction methods, procedures, etc., to further reduce utility system expansion costs where transmission and distribution savings can be offset.

These objectives will be achieved through installation of six smaller sub-projects:

(1) Commercial Fluorescent Lighting at five customer sites;

(2) Commercial Outdoor Lighting at six customer sites;

(3) Residential and Farm Isolated Loads at six sites;

(4) 50 kw Grid Support at the Barnegat Light State Park;

(5) 2kw Utility Interactive System at a municipal building; and

(6) High Pressure Sodium Street Lights at five sites.

USAPV has a unique relationship with Jersey Central Power & Light Company, Atlantic Electric and GPU Service Corporation. This relationship will allow successful attainment of project objectives. The Project is endorsed by the New Jersey Department of Environmental Protection and Energy, as well as the New Jersey Board of Regulatory Commissioners Division of Electric Staff.

Walter G. Runte, Jr. will be the project director. Mr. Runte has been associated

with the electric utility business since 1975. He has held a variety of positions with increasing responsibility at both GPU Service and GPU Nuclear Corporations. In his present position, Mr. Runte, in conjunction with its operating subsidiaries, is responsible for the identification, development and implementation of new business ventures and new customer service offerings for the GPU System, including investments in strategic industries. In addition, he plays an integral role in a corporate development process, the purpose of which is to assist in the repositioning of the organization for an increasingly competitive marketplace.

Based on the general evaluation, the application was found to be meritorious. The proposed project represents a unique approach and would not be eligible for financial assistance under a recent, current, or planned solicitation, and it is considered by DOE that a competitive solicitation would be inappropriate for this action.

The total estimated value of the grant is $705,480. Cost sharing will be on a 50/50 basis with both DOE and USAPV contributing $352,740. The term of the proposed grant will be 12 months.

Issued in Chicago, Illinois on August 26, 1993.

Alan E. Smith,

Director, Operations Management Support Division.

[FR Doc. 93–22199 Filed 9–9–93; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. TM94–1–88–000]

Black Marlin Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take Notice that on August 31, 1993, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheet to be effective October 1, 1993:

Fourth Revised Sheet No. 4

Black Marlin states that the above-referenced tariff sheet is being filed pursuant to Section 18 of the General Terms and Conditions of Black Marlin's tariff to reflect the increase of the ACA charge to .25¢/MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1993.

Black Marlin further states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93–22083 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–67–000]

Canyon Creek Compression Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Canyon Creek Compression Company (Canyon) tendered for filing Fourth Revised Sheet No. 7 (First Revised Volume No. 1) and Fourth Revised Sheet No. 5 (First Revised Volume No. 1A) to be a part of its FERC Gas Tariff, to be effective October 1, 1993.

Canyon states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1993 is .26¢ per Mcf.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1993.

Canyon states that a copy of the filing is being mailed to Canyon's jurisdictional 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 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 September 13, 1993. 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. 93–22084 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–185–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, with a proposed effective date of October 1, 1993:

Original Sheet No. 9

Carnegie states that it is filing the above tariff sheet as a limited application under section 4 of the Natural Gas Act and the Commission's Order No. 636 to direct bill to Carnegie's former firm sales customers gas costs direct billed to Carnegie by Carnegie's upstream pipeline, Texas Eastern Transmission Corporation (Texas Eastern), pursuant to Texas Eastern's filings in Docket Nos. RP93–112–000, RP93–122–000, and RP93–128–000. Carnegie states that it is filing making this filing pursuant to Section 31.3(b) of the General Terms and Conditions of its FERC gas tariff.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22086 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-184-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of October 1, 1993:

First Revised Sheet No. 8

Carnegie states that it is filing the above tariff sheet as a limited application under section 4 of the Natural Gas Act and the Commission's Order No. 636 to direct bill to New Jersey Natural Gas Company the adjusted balance of Carnegie's Account No. 191 as of July 31, 1993, exclusive of amounts direct billed to Carnegie by Carnegie's upstream pipeline, Texas Eastern Transmission Corporation pursuant to Texas Eastern's filings in Docket Nos. RP93-112-000, RP93-122-000 and RP93-128-000. Carnegie states that it is making this filing pursuant to Section 31.3(a) of the General Terms and Conditions of its FERC gas tariff.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22085 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-186-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of October 1, 1993:

Second Revised Sheet No. 7

Carnegie states that it is filing the above tariff sheets as a limited application under section 4 of the Natural Gas Act pursuant to Section 32.2 of the General Terms and Conditions of Carnegie's tariff. The filing seeks to recover, through a monthly demand surcharge on Rate Schedule FTS service, $1.1624/Dth for the unrecovered costs of 12,222 Dth/d of unassigned upstream capacity. Carnegie proposes an effective date of October 1, 1993, the date of implementation of its restructured services pursuant to the August 2, 1993, Order in Docket No. RS92-30-000.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22087 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-178-000 and TM94-1-97-000]

Chandeleur Pipe Line Co.; Annual Charge Adjustment Clause Filing

September 3, 1993.

Take notice on August 31, 1993, Chandeleur Pipe Line Company (Chandeleur) tendered for filing proposed tariff sheets designed to add an Annual Charge Adjustment Clause to its FERC Gas Tariff. Chandeleur also proposes to adjust its rates to reflect the Federal Energy Regulatory Commission's FY 1994 annual charge for natural gas pipeline companies of $0.0026 per Mcf. Chandeleur has proposed an effective date for the revised tariff sheets of October 1, 1993.

Chandeleur states that a copy of this filing has been mailed to each of Chandeleur's current FT and IT shippers as well as the two state public utility commissions in Chandeleur's service area.

Any person desiring to be heard or to protest this 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 375.211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22078 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-5-2-000]

East Tennessee Natural Gas Co.; Rate Filing

September 3, 1993.

Take notice that on August 31, 1993, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Tariff Sheet No. 7, with a proposed effective date of September 1, 1993.

East Tennessee states that the purpose of this filing is to pass through take-or-pay transition costs assessed to East Tennessee by Tennessee Gas Pipeline Company (Tennessee) pursuant to Section 26.5 of the General Terms and Conditions of Volume 1 of East Tennessee's tariff. Tennessee made its filing assessing costs against East Tennessee in Docket No. RP93-132-000 on May 28, 1993 for a proposed effective date of July 1, 1993. The provisions of Section 26.5 of East Tennessee's tariff

require East Tennessee to file to pass through the Tennessee charges within thirty days of billing by Tennessee. Tennessee billed East Tennessee for the increase on August 15, 1993.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions or protests should be filed on or before September 13, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22080 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-33-000]

El Paso Natural Gas Co. Tariff Filing

September 3, 1993.

Take notice that on August 31, 1993, El Paso Natural Gas Company (El Paso), tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act, a notice of:

(i) A revision to El Paso's Take-or-Pay Buyout and Buydown Cost Recovery for interest in accordance with Sections 22 and 21, Take-or-Pay Buyout and Buydown Cost Recovery, of its First Revised Volume No. 1-A and Second Revised Volume No. 1 FERC Gas Tariffs, respectively; and

(ii) A revision in the Annual Charge Adjustment (ACA) in accordance with Section 21, Annual Charge Adjustment Provision, contained in the General Terms and Conditions in El Paso's First Revised Volume No. 1-A FERC Gas Tariff.

El Paso states that the instant filing reflects no additions to the principal amounts presently being amortized under El Paso's Take-or-Pay Cost Recover mechanism as set forth in El Paso's filing made April 30, 1993, at Docket No. RP93-108-000. The only adjustments proposed by the filing are being made pursuant to Sections 21.4(d)(iii) and 21.5(c)(iii) contained in its Second Revised Volume No. 1 Tariff which provides for adjustments to El Paso's Monthly Direct Charge and Throughput Surcharge for interest calculated on the unrecovered balance of El Paso's buyout and buydown costs. El Paso states that interest is permitted to accrue, with respect to its buyout and buydown costs, commencing on the effective date of the rates including such costs or the date El Paso makes the take-or-pay payment, whichever is later. As a result, the Throughput Surcharge has been changed from a Maximum Rate of $0.0422 per dth to $0.0417 per dth.

In addition, El Paso states that the proposed tariff sheets reflect an ACA charge of $0.0025 per dth to be collected for the fiscal year beginning October 1, 1993. This represents an increase of $0.0003 per dth in the ACA charge currently being charged.

El Paso respectfully requests that the Commission accept the tendered tariff sheets for filing and permit them to become effective October 1, 1993, which is not less than thirty (30) days after the date of filing.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation and affected sales customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before September 13, 1993. 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 conference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22082 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective October 1, 1993:

Forty-Seventh Revised Sheet No. 8
Sixteenth Revised Sheet No. 8A
Thirteenth Revised Sheet No. 8B

FGT states that the above-referenced tariff sheets are being filed pursuant to section 22 of the General Terms and Conditions of FGT's Tariff to reflect the increase of the ACA charge to .25¢/MMBtu (.025¢/therm) based on the Commission's Annual Charge Billing for Fiscal Year 1993.

FGT further states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with § 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22088 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-51-000]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Great Lakes Gas Transmission Limited Partnership (Great Lakes), tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date of October 1, 1993:

First Revised Volume No. 1
Tenth Revised Sheet No. 57(iv)

Original Volume No. 3
Ninth Revised Sheet No. 2

Tenth Revised Sheet No. 3

Great Lakes states that the above tariff sheets reflect the new ACA rate to be charged pursuant to the Annual Charges Adjustment Clause provisions established by the Commission in Order No. 472, issued May 29, 1987. The new ACA rate to be charged by Great Lakes was established by FERC notice given on July 26, 1993 and is to be effective October 1, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 13, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22089 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-110-000]

Iroquois Gas Transmission System, L.P.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Iroquois Gas Transmission System, L.P. (Iroquois), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of October 1, 1993.

First Revised Volume No. 1
Second Revised Sheet No. 4
Second Revised Sheet No. 5

Iroquois states that the above tariff sheets were filed to reflect an adjustment to its current ACA charge to reflect the charge specified in the Commission's Annual Bill of which the unit amortization charge would be $0.0026. Iroquois states that its First Revised FERC Gas Tariff Volume No. 1 complies with § 154.38(d)(6)(ii)(A)(1)-(4) of the Commission's Regulations.

Iroquois states that copies of the filing were served upon Iroquois' jurisdictional customers, interested state regulatory commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such petitions or protests should be filed on or before September 13, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22090 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-65-000]

Jupiter Energy Corp.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Jupiter Energy Corporation (Jupiter Energy), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with a proposed effective date of October 1, 1993:

Seventh Revised Sheet No. 4A
Seventh Revised Sheet No. 5A
Seventh Revised Sheet No. 6A

Jupiter Energy states that the filed tariff reflect revision, pursuant to § 154.38(d)(6) of the Commission's regulations, of Jupiter Energy's Annual Charge Adjustment (ACA) surcharge. The new surcharge rate is .26¢ per Mcf.

Jupiter Energy states that copies of the filing have been served on the Company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1993. 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 Jupiter Energy's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22091 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Kentucky West Virginia Gas Company (Kentucky West), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 163, to become effective October 1, 1993.

Kentucky West states the revised tariff sheet amends its Annual Charge Adjustment (ACA) charge to place in effect the new ACA funding unit of $.0026 per MCF which represents an increase of $.0003 per MCF. This rate is $.0023 per Dth as converted on Kentucky West's system.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22092 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-47-000]

MIGC, Inc.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, MIGC, Inc. (MIGC) tendered for filling as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 4, with a proposed effective date October 1, 1993.

MIGC states that the instant filing is being submitted to reflect Annual Charge Adjustment unit charges applicable to transportation services during the fiscal year commencing October 1, 1993.

MIGC states that copies of the filing are being served upon all of MIGC's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before September 13, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22093 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-25-000]

Mississippi River Transmission Corp.; Proposed Change in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date of October 1, 1993:

Second Revised Volume No. 1

Ninety-Third Revised Sheet No. 4
Fifty-Second Revised Sheet No. 4.1
Eleventh Revised Sheet No. 4D

Original Volume No. 1-A

Thirteenth Revised Sheet No. 2
Thirteenth Revised Sheet No. 3
Eighth Revised Sheet No. 4

MRT states that the purpose of the instant filing is to adjust the currently effective ACA charge in its jurisdictional sales and transportation rates to the new FERC approved surcharge of $.0025 per MMBtu effective October 1, 1993.

MRT states that a copy of revised sheets is being mailed to each of its jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

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 §§ 385.211 and 385.214 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 September 13, 1993. 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. 93-22094 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-688-000]

Natural Gas Pipeline Company of America; Application

September 3, 1993.

Take notice that on August 27, 1993, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP93-688-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, effective September 2, 1993, Natural's firm transportation service for Sea Robin Pipeline Company (Sea Robin) performed under the Natural's Rate Schedule X-93, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement between Natural and Sea Robin Dated September 2, 1977 (Agreement), Natural's Rate Schedule X-93, Natural states that it had received on a firm basis up to 4,500 Mcf of natural gas per day in Eugene Island Block 305, offshore Louisiana for Sea Robin and had redelivered such gas to Sea Robin in Eugene Island Block 295, offshore Louisiana.

Natural states further that Sea Robin, by a letter to Natural dated January 8, 1993, requested that Natural abandon, effective September 2, 1993, the Agreement and Natural's Rate Schedule X-93 firm transportation service. Natural therefore proposes to abandon, effective September 2, 1993, its firm transportation service for Sea Robin provided under the Agreement and Natural's Rate Schedule X-93 as authorized in Docket No. CP77-641.

Any person desiring to be heard or any person desiring to make any protest with reference to said application should on or before September 24, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Natural to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22074 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-26-000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice on August 31, 1993, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, revised tariff sheets to be effective October 1, 1993.

Natural states that the purpose of the filing is to implement the Annual

Charges Adjustment (ACA) charge necessary for Natural to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1993 is .26¢ per Mcf. Under Natural's billing basis of 14.73 psia at 1,000 Btu, this rate converts to .25¢ per Mcf.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1993.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion in intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 1993. 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. 93–22097 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–16–000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective on October 1, 1993.

First Revised Sheet Nos. 219–220
First Revised Sheet Nos. 222–223
First Revised Sheet No. 225

National states that the purpose of this filing is to (1) update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of Section 20 of the General Terms and Conditions to National's FERC Gas Tariff, Third Revised Volume No. 1 and; (2) update Third Revised Volume No.1 Section 20 tariff sheets to conform to those filed and approved under Second Revised Volumes No. 1 in Docket TM93–4–16.

National further states that the pipeline-supplier which has received approval to bill revised take-or-pay charges, as reflected in National's filing herein, is Tennessee Gas Pipe Line Corporation.

National states copies of National's filing were served on National's jurisdictional customers and on the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 and 385.211). All such motions to intervene or protests should be filed on or before September 13, 1993. 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. 93–22095 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–2–16–000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective on October 1, 1993.

First Revised Sheet Nos. 5–6

National states that the purpose of this filing is to revise the ACA unit surcharge authorized by the Commission for Fiscal 1994 to $.0026 per Mcf or $.0025 per Dth converted to National's measurement basis.

National states that copies of the filing were served on National's jurisdictional customers and on the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before September 13, 1993. 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. 93–22096 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–100–000]

Nora Transmission Co.; Proposed Change in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Nora Transmission Company (Nora), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Third Revised Sheet No. 5, to become effective October 1, 1993.

Nora states the revised tariff sheet amends its Annual Charge Adjustment (ACA) charge to place in effect the new ACA funding unit of $.0026 per MCF which represents an increase of $.0003 per MCF. This rate converts to $.0025 per Dth.

Nora states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1993. 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. 93–22098 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93-692-000]

Northern Natural Gas Co.; Request Under Blanket Authorization

September 3, 1993.

Take notice that on August 30, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-692-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install a delivery point to accommodate increased natural gas deliveries to Northwestern Public Service Co. (NWPS) under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install and operate one small volume measuring station and appurtenant facilities as a delivery point to provide natural gas deliveries to NWPS to accommodate service under Northern's existing transportation service agreement with NWPS, to serve John Kertscher, an end-user located in Hanson County, South Dakota.

Northern states that the estimated volumes to be delivered to NWPS is 3.0 Mcf per day and 112 Mcf on an annual basis. Northern states that the volumes proposed to be delivered to NWPS at the proposed delivery point will be within the currently effective service agreements with NWPS. It is estimated that the total cost to install the proposed delivery will be $930.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22075 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-5-000]

Northwest Pipeline Corp., Technical Conference

September 3, 1993.

In his order Rescheduling Procedural Dates, issued August 27, 1993, Presiding Administrative Law Judge Harfeld suggested that a technical conference be arranged "for the purpose of allowing all parties and participants a final and full opportunity to acquire a working knowledge of all submissions and, thereby, of limiting the need for undue exploratory cross-examination." For this purpose, take notice that a technical conference will be convened in this proceeding at 9 a.m. on September 28, 1993 at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend.

For additional information, contact Marc G. Denkinger, (202) 208-2215 or Kathleen M. Dias, (202) 208-0524.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22073 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-59-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2.

Northern states that the filing establishes the revised Annual Charge Adjustment (ACA) rate effective October 1, 1993, for Northern's sales and transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to part 382 of the Commission's Regulations.

Northern copies of this filing were served upon Northern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.44 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. All protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22099 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-73-000]

Ozark Gas Transmission System; Proposed Change in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Ozark Gas Transmission System (Ozark), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of October 1, 1993:

Sixth Revised Sheet No. 4

Ozark states that it is amending its transportation rate schedule to reflect its Commission-authorized Annual Charge Adjustment (ACA) unit charge of $.0026. Ozark states that this filing is submitted in compliance with Section 154.38(d)(6)(iii) of the Commission's Regulations.

Ozark states that copies of the filing were served upon Ozark's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22100 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-64-000]

Pacific Interstate Offshore Co.; Change in Rate

September 3, 1993.

Take notice that on August 31, 1993, Pacific Interstate Offshore Company (PIOC), tendered for filing, to be part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date October 1, 1993:

First Revised Volume No. 1
Second Revised Volume No. 1
Third Revised Sheet No. 4
Substitute Original Sheet No. 6

PIOC states the purpose of this filing is to set forth in applicable Annual Charge Adjustment (ACA) surcharge of .26 cents per MMBtu.

PIOC states that a copy of this filing has been served on PIOC's sole customer, the Southern California Gas Company and the Public Utilities Commission of the State of California and other interested parties.

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 Capitol Street, NE. Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1993. 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. 93-22079 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-166-000]

Panhandle Eastern Pipe Line Co.; Informal Settlement Conference

September 3, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, September 13, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Carmen Gastilo at (202) 208-2182 or Joanne Leveque at (202) 208-5705.

Lois D. Cashell,

Secretary.

[FR Doc. 93-22077 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-55-000]

Questar Pipeline Co.; Tariff Filing

September 3, 1993.

Take notice that on August 31, 1993, Questar Pipeline Company, tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date of October 1, 1993:

First Revised Volume No. 1

First Revised Sheet No. 5
Alternate First Revised Sheet No. 5
First Revised Sheet No. 5A
First Revised Sheet No. 6

Original Volume No. 3

Twelfth Revised Sheet No. 8
Alternate Twelfth Revised Sheet No. 8

Quester states that this filing incorporates into its storage and transportation rates the annual charge unit rate of $0.0026 per Mcf adjusted to $0.00245 per Dth.

Questar states that copies of this filing were served upon Questar's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 13, 1993. 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. 93-22081 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-69-000]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Stingray Pipeline Company (Stingray) tendered for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 4 to be effective October 1, 1993.

Stingray states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Stingray to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1993 is .26¢ per Mcf. Under Stingray's billing basis, this rate converts to .25¢ per Dekatherm.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on October 1, 1993.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional 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 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 September 13, 1993. 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. 93-22101 Filed 9-9-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-68-000]

Trailblazer Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Trailblazer Pipeline Company (Trailblazer) tendered for filing First Revised Sheet No. 4 (First Revised Volume No. 1) and Fourth Revised Sheet No. 5 (First Revised Volume No.

1A) to be a part of its FERC Gas Tariff, to be effective October 1, 1993.

Trailblazer states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Trailblazer to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1993 is .26¢ per Mcf.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1993.

Trailblazer states that a copy of the filing is being mailed to Trailblazer's jurisdictional 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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93–22102 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1993.

Take notice that on August 31, 1993, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet Nos. 6 and 6A, with a proposed effective date of October 1, 1993.

WNG states that pursuant to Article 26 of the General Terms and Conditions of such tariff, it proposes to increase its rates effective October 1, 1993, to reflect an increase in the FERC Annual Charge Adjustment from $.0023 to $.0025 per Dth for the fiscal year beginning October 1, 1993, per the Commission's Annual Charges Billing issued July 26, 1993.

WNG states that copies of the filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 13, 1993. 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. 93–22103 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–58–000]

Valero Interstate Transmission Co., Proposed Changes in FERC Gas Tariff

Take notice that on August 31, 1993, Valero Interstate Transmission Company (Vitco), tendered for filing the following tariff sheets containing changes to the ACA unit rate in each applicable rate schedule:

FERC Gas Tariff, First Revised Volume No. 1
- 2nd Revised Sheet No. 7
- 2nd Revised Sheet No. 8
- 2nd Revised Sheet No. 70

FERC Gas Tariff, First Revised Volume No. 2
- 11th Revised Sheet No. 6
- 2nd Revised Sheet No. 21

The proposed effective date of the above filing is October 1, 1993.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1993. 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. 93–22104 Filed 9–9–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4727–8]

National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of complete enforceable commitments received.

SUMMARY: This notice provides a list of companies that have submitted "complete" enforceable commitments to the EPA under the Early Reductions Provisions (section 112(i)(5)) of the Clean Air Act (CAA) as amended in 1990. The list covers commitments determined by the EPA to be complete through August 9, 1993, and includes the name of each participating company, the associated emissions source location, and the EPA Regional Office which is the point of contact for further information. This is one of a series of notices of this type. The most recent notice listed nineteen sources which have had commitments deemed complete by the EPA. The EPA will publish additional lists of complete submittals on a monthly basis, as needed.

FOR FURTHER INFORMATION CONTACT: David Beck (telephone: 919–541–5421), Rick Colyer (telephone: 919–541–5262), or Mark Morris (telephone: 919–541–5416), Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 for general information on the Early Reductions Program. For further information on specific submittals received under the Early Reductions Program contact the appropriate EPA Regional Office representative listed below.

Region I—Janet Beloin (617) 565–2734
Region II—Umesh Dholakia or Harish Patel (212) 264–6676
Region III—Alice Chow (215) 597–6550
Region IV—Anthony Toney (404) 347–2864
Region V—Aurelio Alvarez (312) 353–8657

Region VI—Tom Driscoll (214) 655–7549
Region VII—Ward Burns (913) 551–7960
Region VIII—Cory Potash (303) 293–1886
Region IX—Ed Pike (415) 744–1248
Region X—Chris Hall (206) 553–1949

SUPPLEMENTARY INFORMATION: Under section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990, an existing source of hazardous air pollutant emissions may obtain a 6-year extension of compliance with an emission standard promulgated under section 112(d) of the CAA, if the source achieves sufficient reductions of hazardous air pollutant emissions prior to certain dates. On October 29, 1992, the EPA Administrator signed a final rule to implement this "Early Reductions" provision. The final rule was published in the **Federal Register** on December 29, 1992, (57 FR 61970).

Sources choosing to participate in the Early Reductions Program must document base year emissions and post-reduction emissions to show that sufficient emission reductions have been achieved to qualify for a compliance extension. As a first step toward this demonstration, some sources may be required to submit an enforceable commitment containing base year emission information, or if not required, may voluntarily submit such emission information to the EPA for approval. As stated in the proposed Early Reductions rule, the EPA will review these submittals to verify emission information, and also will provide the opportunity for public review and comment. Following the review and comment process and after sources have had the chance to revise submittals (if necessary), the EPA will approve or disapprove the base year emissions.

To facilitate the public review process for program submittals, the proposed rule contains a commitment by the EPA to give monthly public notice of submittals received which have been determined to be complete and which are about to undergo technical review within the EPA. Members of the public wishing to obtain more information on a specific submittal then may contact the appropriate EPA Regional Office representative listed above.

Eighty-four enforceable commitments have been received by the EPA (Note: In the previous notice eighty-seven submittals were listed as being received, since then four submittals from First Chemical were combined into one submittal, reducing the total to eighty-four submittals), and twenty-five have been determined to be complete to date. Some of the early reductions submittals received actually contain multiple enforceable commitments; that is, some companies have decided to divide their particular plant sites into more than one early reductions source. Each of these sources must achieve the required emissions reductions individually to qualify for a compliance extension. The purpose of today's notice is to add commitments from Dayco, Dow, First Chemical, Monsanto, and PPG to the previously published list of commitments that have been determined to be complete by the EPA under the Early Reductions Program. Since the last notice, the EPA has deemed complete one commitment from Dayco for a source in Waynesville, North Carolina, one from Dow in Dalton, Georgia, one from First Chemical in Pascagoula, Mississippi, two from Monsanto in Springfield, Massachusetts, and one from PPG in Lake Charles, Louisiana. As the remaining submittals are determined to be complete, they will appear in subsequent monthly notices.

At a later time (most likely within one to three months of today's date), the EPA Regional Offices will provide a formal opportunity for the public to comment on the submittals added to the list by today's notice. To do this, the Regional Office will publish a notice in the source's general area announcing that a copy of the source's submittal is available for public inspection and that comments will be received for a 30 day period.

The table below lists those companies that have made complete enforceable commitments or base year emission submittals under the Early Reductions Program through August 9, 1993. These submittals are undergoing technical review within the EPA at this time.

TABLE 1.—COMPLETE ENFORCEABLE COMMITMENTS AS OF AUGUST 9, 1993

Company	Location	EPA region
1. Amoco Chemical Co. (first source)	Texas City, TX	VI
2. Amoco Chemical Co. (second source)	Texas City, TX	VI
3. Johnson & Johnson Medical, Inc.	Sherman, TX	VI
4. PPG Industries	Lake Charles, LA	VI
5. Allied-Signal (first source)	Baton Rouge, LA	VI
6. Allied-Signal (second source)	Baton Rouge, LA	VI
7. Allied-Signal (third source)	Baton Rouge, LA	VI
8. Allied-Signal (first source)	Ironton, OH	V
9. Allied-Signal (second source)	Ironton, OH	V
10. Monsanto	Sauget, IL	V
11. Dow Corning	Midland, MI	V
12. Allied-Signal	Philadelphia, PA	III
13. Texaco-Neches	Port Neches, TX	VI
14. Wyeth Ayerst	Rouses Point, NY	II
15. Marathon Oil	Garyville, LA	VI
16. Monsanto	Springfield, MA	I
17. Polyken	Franklin, KY	IV
18. Occidental Chemical	Belle, WV	III
19. Dayco	Waynesville, NC	IV
20. Dow	Dalton, GA	IV
21. First Chemical	Pascagoula, MS	IV
22. Hoechst Celanese	Bishop, TX	VI
23. Monsanto (first source)	St. Louis, MO	VII
24. Monsanto (second source)	St. Louis, MO	VII
25. PPG	New Martinsville, WV	III

Dated: September 2, 1993.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93-22193 Filed 9-9-93; 8:45 am]

BILLING CODE 6560-50-P

[ER-FRL-4624-4]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075.

Weekly receipt of Environmental Impact Statements Filed August 30, 1993 Through September 03, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930305, DRAFT EIS, FHW, IL, IL-13 (FAP-331) Transportation Improvements from west of the Illinois Central Railroad to US 45 east of Harrisburg, Funding, COE Section 404 and NPDES Permits, Williamson and Saline Counties, IL, Due: October 25, 1993, Contact: Lyle P. Renz (217) 492-4600.

EIS No. 930306, DRAFT EIS, NPS, AZ, Tumacacori National Historical Park, General Management Plan (GMP), Implementation, Santa Cruz County, AZ, Due: November 26, 1993, Contact: Stanley T. Albright (415) 744-3968.

EIS No. 930307, DRAFT SUPPLEMENT, FHW, NY, NY-9A Reconstruction Project, Battery Place to 59th Street along the western edge of Manhattan, New Information, Funding and Approval of Permits, New York County, NY, Due: November 03, 1993, Contact: Harold J. Brown (518) 472-3616.

EIS No. 930308, DRAFT EIS, HUD, CA, Martin Luther King, Jr. Plaza Development on the former Marritt College and University High School Site, Funding and Implementation, City of Oakland, Alameda County, CA, Due: October 25, 1993, Contact: Richard Broun (202) 708-3297.

EIS No. 930309, DRAFT EIS, AFS, CA, Hamm-Hasloe Reforestation Project, Implementation, Stanislaus National Forest, Groveland Ranger District, Tuolume and Mariposa Counties, CA, Due: October 25, 1993, Contact: Herb Hahn (209) 962-7825.

EIS No. 930310, FINAL EIS, AFS, MT, Tolan Creek Timber Sale, Timber Harvest and Road Construction, Tolan Creek, Bitterroot National Forest, Sula Ranger District, Ravalli County, MT, Due: October 12, 1993, Contact: David M. Campbell (406) 821-3201.

EIS No. 930311, FINAL EIS, EPA, CA, San Francisco Bay Deep-Water Ocean Dredged Material Disposal Sites (ODMDs), Site Designation, COE Section 404 Permit and Long-term Management Strategy (LTMS), San Francisco Bay, CA, Due: October 12, 1993, Contact: Allen Ofa (415) 744-1164.

EIS No. 930312, DRAFT SUPPLEMENT, FHW, PA, Mon/Fayette Transportation Project, I-70 in Fallowfield Township to PA-51 in Jefferson Borough, Updated Information concerning the addition of the Green Alignment Alternative, Funding, COE Section 404 and NPDES Permits, Mon Valley, Washington and Allegheny Cos., PA, Due: October 25, 1993, Contact: Daniel W. Johnson (717) 782-3461.

Amended Notices

EIS No. 930273, DRAFT EIS, AFS, AK, Main Bay Salmon Hatchery Expansion, Implementation, Special-Use-Permit and COE Section 404 Permit, Prince William Sound, Chugach National Forest, Glacier Ranger District, AK, Due: October 04, 1993, Contact: John Dorio (907) 783-3242.

Published FR 08-20-93—Review period extended.

Dated: September 7, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-22191 Filed 9-9-93; 8:45 am]

BILLING CODE 6560-50-U

[ER-FRL-4624-5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 23, 1993 Through August 27, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

Draft EISs

ERP No. D-FHW-F40333-WI Rating EC2, US 10 Corridor between Waupaca and Fremont Transportation Improvement from Anderson Road west of the WI-TH-54/49 Interchange to Brown Road and west of the Village of Fremont, Funding and COE Section 404 Permit, Waupaca County, WI.

Summary: EPA expressed environmental concerns that will be satisfied when mitigation for woodland impacts are discussed, actions are identified and implemented and when noise mitigation measures in addition to noise barriers are considered.

ERP No. D-NOA-K64013-HI Rating LO, Pelagic Fisheries of the Western Pacific Region, Amendment 7 to the Fishery Management Plan, Implementation, Exclusive Economic Zone, (EEZ), HI.

Summary: EPA had no objections to the proposed action.

Final EISs

ERP No. F-AFS-L82011-ID,Coeur d'Arlene Nursery Pest Management, Implementation, Idaho Panhandle National Forests, Kootenai County, ID.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. No formal letter was sent to the preparing agency.

ERP No. F-FAA-E51043-TN, Memphis International Airport, Runway 18L-36R Extension, Construction and Operation of Associated Facilities and Relocation of Swinnea Road, portion of Winchester Road and Shelby Drive, Airport Layout Plan (ALP) Approval, Funding and COE Section 404 Permits, Shelby County, TN.

Summary: EPA had environmental concerns although an overall noise reduction is projected for the airport environs by the year 2000, additional information on air traffic patterns, noise level increases within the 65 and 60 Ldn contours, and noise mitigation is needed to fully evaluate all noise impacts.

ERP No. F-NPS-B61018-VT, Appalachian National Scenic Trail Protection from Deer Leap Mountain to the Mendon-Shrewsbury Town Line, Pico/Killington Section, Implementation, Rutland County, VT.

Summary: EPA continued to have environmental objections to the National Park Service's proposed relocation of the Applachian Trail (AT) in Vermont. EPA stated that the choice of an alternative for protecting the existing AT should not be based on whether it potentially affects future ski area development, but on which alternative maximizes protection for the Trail.

ERP No. F-USN-D11020-MD, Naval Air Warfare Center Aircraft Division Base Realignment, Naval Air Station Patuxent River, St. Mary's, Calvert and Charles Counties, MD.

Summary: EPA expressed environmental concerns regarding the lack of a full discussion on wetland mitigation, farmlands and electromagnetic fields.

ERP No. F-USN-D11022-00, Dahlgren Division, Naval Surface Warfare Center Base Realignment, New Construction and Renovation, Westmoreland, Stafford, Spotsylvania and King George Counties, VA and Charles County, MD.

Summary: EPA continued to express environmental concern regarding electromagnetic field impacts.

Dated: September 7, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93-22190 Filed 9-9-93; 8:45 am]

BILLING CODE 6560-50-U

[OPP-00364; FRL-4646-5]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Ground Water Protection and Pesticide Disposal will hold a 2-day meeting, beginning on September 27, 1993, and ending on September 28, 1993. This notice announces the location and times for the meeting and sets forth tentative agenda topics.

DATES: The SFIREG Working Committee on Ground Water Protection and Pesticide Disposal will meet on Monday, September 27, 1993 from 8:30 a.m. to 5 p.m. and on Tuesday, September 28, 1993 beginning at 8:30 a.m. and adjourning at approximately noon.

ADDRESSES: The meeting will be held at: DoubleTree Hotel National Airport - Crystal City, 300 Army-Navy Drive, Arlington, Virginia, (703) 892-4100.

FOR FURTHER INFORMATION CONTACT: By Mail: Shirley M. Howard, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Office location and telephone number: Rm. 1109, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703) 305-7371.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee includes the following:

1. Reports from the SFIREG Working Committee Members on State Ground Water Protection & Pesticide Disposal projects.
2. Report from EPA Regional/ Headquarters Review Team Meetingregarding State Management Plans.
3. Update on Laboratory Issues.
4. Discussion on Land Spreading Procedures & Issues.
5. Update on Groundwater Monitoring Protocols & Studies.
6. Update on EPA's Rinsate Policy.
7. Discussion of EPA response to the Midwest Flood.

Dated: September 2, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-21993 Filed 9-9-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before November 9, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395-7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2624.

Type: Reinstatement of 3067-0018.

Title: National Flood Insurance Program Biennial Report.

Abstract: The Federal Emergency Management Agency requires that communities participating in the National Flood Insurance Program submit a biennial report on progress made in the implementation and enforcement of floodplain management regulations. The information provided by communities using FEMA Forms 81-28, 81-29, and 81-29A enables FEMA to be more responsive to the ongoing changes which occur in each participating community's flood hazard area, as well as to evaluate the effectiveness of the community's floodplain management activities.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 7,988 hours.

Number of Respondents: 17,730.

Estimated Average Burden Time per Response: 27 minutes.

Frequency of Response: Biennially.

Dated: August 27, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93-22218 Filed 9-9-93; 8:45 am]

BILLING CODE 6718-01-M

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paper Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before November 9, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395-7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2624.

Type: Extension of 3067-0181.

Title: Survey of Contractor Responsibility.

Abstract: FEMA Form 40-25, Survey of Contractor Responsibility, is used to collect financial and historical business

data on prospective FEMA contractors. The survey will assist the contracting officer in making the required determination of contractor responsibility so that mobile home set-up contracts can be awarded expeditiously during disaster relief operations.

Type of Respondents: Individuals and households, small businesses or organizations.

Estimate of Total Annual Reporting and Recordkeeping Burden: 245 hours.

Number of Respondents: 150.

Estimated Average Burden Time per Response: 1.63 hours.

Frequency of Response: On occasion during a Presidentially-declared major disaster or emergency.

Dated: August 27, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93-22154 Filed 9-9-93; 8:45 am]

BILLING CODE 6718-01-M

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before November 9, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395-7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2624.

Type: Extension of 3067-0177.

Title: Local Level Civil Rights Compliance Checklist.

Abstract: FEMA Form 14-4, Local Civil Rights Compliance Checklist, will be used to obtain information on warning and communications, evacuation and shelter, and emergency operating centers from State and local governments. The information is needed to assess their compliance with civil-rights statutes. The information will provide an inventory of accomplishments and deficiencies that will enable FEMA to offer technical assistance where appropriate.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1,350 hours.

Number of Respondents: 675.

Estimated Average Burden Time per Response: 2 hours.

Frequency of Response: On occasion.

Dated: August 31, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93-22217 Filed 9-9-93; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; APL-TMM Discussion Agreement

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, 800 North Capitol Street, NW., 9th Floor. 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.: 203-011428.

Title: APL-TMM Discussion Agreement.

Parties:

American President Line, Ltd.
Transportation Maritime Mexicana, S.A. de C.V.

Synopsis: The proposed Agreement would permit the parties to discuss rates, costs of service and other matters of mutual concern in the trade and various subtrades between ports and points in the Far East, the Indian Subcontinent, the Middle East, and ports and points in the United States. Adherence is voluntary.

Dated: September 3, 1993.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93-22066 Filed 9-9-93; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Silversea Cruises, Ltd., 110 E. Broward Blvd., Ft. Lauderdale, Florida 33301.

Vessel: SILVER CLOUD

Dated: September 3, 1993.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93-22065 Filed 9-9-93; 8:45 am]

BILLING CODE 6730-01-M

[Petition No. P61-93, et al]

Petitions for Temporary Exemption From Electronic Tariff Filing Requirements

In the matter of petition No. P61-93, Distribution Services, Ltd. and Distribution Services Export Ltd.; Petition No. P62-93, Effective Tariff Management Corporation on Behalf of Farrell Lines Incorporated; Petition No. P63-93, Trans-American Steamship Agency.

Notice is hereby given of the filing of petitions by the above named petitioners, pursuant to 46 CFR 514.8(a), for temporary exemption from the electronic tariff filing requirements of the Commission's ATFI System. Petitioners request exemption from ATFI filing deadlines.

To facilitate thorough consideration of the petitions, interested persons are requested to reply to the petitions no later than September 15, 1993. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001, shall consist of an original and 15 copies, and shall be served on the following:

P61-93—David P. Street, Esq., Galland, Kharasch, Morse & Garfinkle, P.C., 1054 Thirty-first Street, NW., Washington, D.C. 20007-4492

P62–93—Ms. Tanga S. Fitzgibbon, Executive Vice President, Effective Tariff Management Corporation, 4000 Mitchellville Road, suite 326–B, Bowie, Maryland 20716

P63–93—Ms. Meiko Geyer, Pricing Supervisor, Trans-American Steamship Agency, 140 W. 6th Street, San Pedro, California 90731

Copies of the petitions are available for examination at the Washington, DC office of the Secretary of the Commission, 800 N. Capitol Street, NW., room 1046.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93–22064 Filed 9–9–93; 8:45 am]

BILLING CODE 6730–01–M

[Petition No. P65–93, et al]

Petitions for Temporary Exemption From Electronic Tariff Filing Requirements; Filing of Petitions

In the matter of Petition No. P65–93, Seth Shipping Corp.; Petition No. P66–93, Zim Israel Navigation Co.

Notice is hereby given of the filing of petitions by the above named petitioners, pursuant to 46 CFR 514.8(a), for temporary exemption from the electronic tariff filing requirements of the Commission's ATFI System. Petitioners request a further extension of the June 4, 1993, electronic filing deadline.

To facilitate thorough consideration of the petitions, interested persons are requested to reply to the petitions no later than September 16, 1993. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC. 20573–0001, shall consist of an original and 15 copies, and shall be served on Wayne Rohde, Esq., Sher & Backwell, 1255 Twenty-third Street, NW., Suite 500, Washington, DC. 20037–1194.

Copies of the petitions are available for examination at the Washington DC office of the Secretary of the Commission, 800 N. Capitol Street, NW., room 1046.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93–22067 Filed 9–9–93; 8:45 am]

BILLING CODE 6730–01–M

[Petition No. P64–93]

Petition of Transax Data on Behalf of Various Carriers for Temporary Exemption from Electronic Tariff Filing Requirements; Filing of Petition

Notice is hereby given of the filing of a petition by the above named petitioner, pursuant to 46 CFR 514.8(a), for temporary exemption from the electronic tariff filing requirements of the Commission's ATFI System. Petitioner requests exemption from the June 4, 1993, electronic filing deadline.

To facilitate thorough consideration of the petition, interested persons are requested to reply to the petition no later than September 16, 1993. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, shall consist of an original and 15 copies, and shall be served on Mr. Steve Baker, Manager, Regulatory, Transax Data, 721 Route 202/206, Bridgewater, New Jersey 08807.

Copies of the petition are available for examination at the Washington, DC office of the Secretary of the Commission, 800 N. Capitol Street, NW., room 1046.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 93–22068 Filed 9–9–93; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 182; 7–D–LA–0435–D]

Portion, Louisiana Army Ammunition Plant, Webster Parish, LA; Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration, dated February 22, 1993, the property, consisting of 24.94 acres of unimproved land, known as a Portion, Louisiana Army Ammunition Plant, Near Minden, Webster Parish, Louisiana, has been transferred to the State of Louisiana.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Public Law 80–537 (16 U.S.C. 667b), as amended by Public Law 92–432.

Dated: August 25, 1993.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 93–22169 Filed 9–9–93; 8;45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children And Families

Agency Information Collection Under OMB Review

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of a new information collection to conduct a four-year evaluation of the effectiveness of the Head Start Family Child Care Homes program. This study is sponsored by the Head Start Bureau of the Administration for Children and Families (ACF).

Addressees: Copies of the Information Collection request may be obtained from Steve R. Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Evaluation of Head Start Family Child Care Homes.

OMB No.: 0980–New Request.

Description: Section 649 of the Head Start Act requires that the "Secretary of the Department of Health and Human Services shall conduct * * * a study of Head Start family day care that is in compliance with the performance standards under section 651(b). Such study shall consider the effectiveness of providing Head Start services in a family day care setting and assess the program characteristics that are necessary to ensure that programs are effective."

Head Start is a national program providing comprehensive developmental services primarily to low-income preschool children and their families. In the past, the majority of Head Start programs have provided services on a part-day basis in center settings or through home visits. As more women have entered the work force, there has been an increased need for full-day services and for additional options in the way Head Start services are delivered. In an effort to better enable local grantees to respond to these community needs, the Administration on Children, Youth and Families

(ACYF) began funding Head Start family child care projects in 1984 through the Locally Designed Options in the Head Start Expansion, and in 1985 through Innovative Projects. In response to the call for an evaluation of the effectiveness of providing Head Start Services in a family child care setting, ACYF is funding eighteen grantees to plan and implement demonstrations of Head Start family child care homes for a three-year period.

Families who participate in the family child care demonstration projects must meet several criteria:

—The child is four years old, or in the year prior to entering kindergarten;
—The parents are working, in job training, or in school;
—The parents are willing to accept random assignment to either the family child care setting or the Center-based comparison group.

The evaluation will examine services provided and outcomes of those services in the Head Start Family Child Care homes and Center-Based programs. The evaluation has three objectives:

(1) To test whether comprehensive Head Start services which meet the Program Performance Standards can be provided in a family child care setting;

(2) To assess the program implementation characteristics that are necessary to ensure programs meet the Head Start Program Performance Standards; and

(3) To assess the impact on children and parents participating in the demonstration in comparison with children and parents participating in the Center-based program.

Annual Number of Respondents: 3,240
Annual Frequency: 2
Average Burden Hours Per Response: 1
Total Burden Hours: 6,480

Dated: August 25, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–22046 Filed 9–9–93; 8:45 am]

BILLING CODE 4184–01–M

Agency for Health Care Policy and Research

Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (title 5, U.S.C., Appendix 2) announcement is made of the following advisory committees scheduled to meet during the month of October 1993:

Name: Health Services Research Review Subcommittee.

Date and Time: October 6–8, 1993, 2 p.m.

Place: Crowne Plaza Hotel, 1750 Rockville Pike, Conference Theater, Rockville, MD 20852.

Open October 7, 8 a.m. to 8:45 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on October 7 from 8 a.m. to 8:45 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., Appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D., Scientific Review Administrator, Scientific Review Branch, Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: October 13–15, 1993, 8 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Conference Room TBA, Bethesda, Maryland 20814.

Open October 13, 1 p.m. to 2 p.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness, and efficiency of the delivery of health services for the research grant program administered by the AHCPR.

Agenda: The open session of the meeting on October 13 from 1 p.m. to 2 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed session, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., Appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Elizabeth A. Breckinridge, Scientific Review Administrator, Scientific Review Branch, Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Name: Health Care Technology Study Section.

Date and Time: October 18–20, 1993, 8:30 a.m.

Place: Marriott Residence Inn, 7335 Wisconsin Avenue, Montgomery II Room, Bethesda, Maryland 20814.

Open October 18, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications concerned with medical decisionmaking, computers in health care delivery, and the utilization and effects of health care technologies and procedures.

Agenda: The open session on October 18 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., Appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Alan E. Mayers, Ph.D., Scientific Review Administrator, Scientific Review Branch, Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Name: Health Services Research Dissemination Study Section.

Date and Time: October 21–22, 1993, 8:30 a.m.

Place: Sheraton Washington Hotel, 2660 Woodley Road, N.W., Delaware B Room, Washington, D.C. 20008.

Open October 21, 8:30–9:30 a.m.

Closed for remainder of meeting.

Purpose: The Study Section is charged with the review of and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and AHCPR liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on October 21 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed portions of the meeting,

the Study Section will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., Appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Scientific Review Administrator, Scientific Review Branch, Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: September 2, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–22135 Filed 9–9–93; 8:45 am]

BILLING CODE 4160–90–U

Food and Drug Administration

[Docket No. 93G–0198]

Purac Biochem b.v.; Filing of Petition For Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Purac Biochem b.v. has filed a petition (GRASP 2G0391), proposing to affirm that 4-O-(β-galactosyl)-D-glucitol (lactitol) is generally recognized as safe (GRAS) for use as a low calorie bulk sweetener in chewing gum, hard and soft candy, and frozen dairy desserts.

DATES: Written comments by November 9, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 19, 1983 (48 FR 37708), FDA announced that a food additive petition (FAP 3A3727) had been filed by C.V. Chemie Combinatie Amsterdam C. C. A. (now Purac Biochem b.v.), Gorinchem, Holland, proposing that part 172 (21 CFR part 172) be amended to provide for the safe use of 4-O-(β-galactosyl)-D-glucitol (lactitol) as a reduced calorie sweetening agent for food. The petitioner, in a letter dated May 15, 1992, requested that FAP 3A3727 be withdrawn without prejudice to a future filing. The notice of withdrawal of FAP 3A3727 was published in the **Federal Register** on July 28, 1992 (57 FR 33358).

The petitioner subsequently submitted a petition to affirm that the subject food ingredient, for more limited use, is GRAS. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(b)(5) (21 U.S.C. 321(s), 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Purac Biochem b.v., c/o Hyman, Phelps & McNamara, 700 Thirteenth St., NW., Washington, DC 20005, has filed a petition (GRASP 2G0391), proposing to affirm that lactitol is GRAS for use as a low calorie bulk sweetener in chewing gum, hard and soft candy, and frozen dairy desserts. The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170. 30 and 170.35) is filed by the agency. Importantly, however, FDA conducts no prefiling review of the adequacy of data to support a conclusion that the subject of the petition is generally recognized as safe. Thus, the filing of this petition for GRAS affirmation should not be interpreted as a preliminary indication of the suitability of lactitol for GRAS affirmation.

At the time the food additive petition (FAP 3A3727) was withdrawn, the Center for Food Safety and Applied Nutrition (CFSAN) had questions about certain data pertaining to lactitol. CFSAN's questions concerned data submitted in FAP 3A3727 showing a significantly increased incidence of Leydig cell tumors in male Wistar-derived rats fed diets containing 10 percent lactitol during their lifetime. The agency acknowledges that GRASP 2G0391 includes a recently published assessment of the relevance of Leydig cell neoplasia for human safety. However, the agency's notice of filing of GRASP 2G0391 should not be interpreted either as a determination, preliminary or otherwise, that the issue of the Leydig cell tumors has been resolved or that lactitol qualifies for GRAS affirmation. These determinations can be made only after CFSAN has completed its review of GRASP 2G0391 and confirmed that the information available adequately addresses the safety of lactitol.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before November 9, 1993, review the petition or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use, especially information regarding the production of Leydig cell tumors in rats, and the relevance of such tumors to human safety. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 31, 1993.

John E. Bailey,

Acting Director, Center for Food Safety and Nutrition.

[FR Doc. 93–22060 Filed 9–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0286]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in alcoholic beverages.

DATES: Written comments on the petitioner's environmental assessment by October 12, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration,

200 C St. SW., Washington, DC 20204, 202–254–9523.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3A4391) has been filed by Hoechst Celanese Corp., Rt. 202–206 North, Somerville, NJ 08876. The petition proposes that the food additive regulations in § 172.800 *Acesulfame potassium* (21 CFR 172.800) be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in alcoholic beverages.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 12, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: August 31, 1993.

John E. Bailey,

Acting Director, Center for Food Safety and Nutrition.

[FR Doc. 93–22061 Filed 9–9–93; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the last list was published on September 3. (Call Reports Clearance Officer on 202–690–7100 for copies of package)

1. Scientific and Technical Competency Form—0925–0287—The Office of Personnel Management (OPM) granted the National Institutes of Health (NIH) authority to rate, rank and establish competitor inventories for Biologist, Microbiologist, and Chemist positions, GS–9/15. The NIH will utilize OPM's Competitive, Recruiting and Examining System (CRES) to meet these objectives. The NIH-wide Scientific and Technical Competency Form was developed from the currently approved NCI form to capture the data needed to issue the applicant a Notice of Rating, certify the best qualified candidates to selecting officials, and expeditiously fill critical scientific positions at NIH. *Respondents:* Individuals or households; *Number of Respondents:* 1800; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .083 hr.; *Estimated Annual Burden:* 150 hrs.

2. 1994 National Household Survey on Drug Abuse—0930–0110—This study, which will affect the population of the United States, is necessary to determine the prevalence of cigarette, alcohol, licit and illicit drug use. The results will be used by SAMHSA, ONDCP, government agencies and other concerned individuals and organizations to direct their activities and establish policy. *Respondents:* Individuals or households; *Number of Respondents:* 23,500; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1.38 hrs.; *Estimated Annual Burden:* 32,490 hrs.

3. Minors' Access to Tobacco—45 CFR parts 96.122 and 96.130—NPRM—New—The rule will provide guidance to States regarding compliance with Section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) related to smoking. The rule would implement the legislation by specifying the annual reporting requirements to be in compliance with this section; *Respondents:* State or local governments; *Number of Respondents:* 1; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1 hr.; *Estimated Annual Burden:* 1 hr.

Desk Officer: Shannah Koss.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: September 3, 1993.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93–22057 Filed 9–9–93; 8:45 am]

BILLING CODE 4160–17–M

Core Support of Selected Boards

Introduction

The Public Health Service (PHS) announces it has awarded fiscal year (FY) 1993 funds for a cooperative agreement to provide core support to selected boards of the National Academy of Sciences to support activities in a number of health areas, including health promotion and disease prevention; healthcare services and maintenance; mental health; toxicology and environmental health hazards; laboratory animal research; food and nutrition; and biological effects of ionizing radiation.

In carrying out its mission, the PHS wishes to have available to it standing boards composed of leading researchers in relevant domains that could be called together to provide either informal advice or more deliberative seminars or studies on discrete issues.

Authority

This program is authorized under Section 301 of the Public Health Act, 42 CFR part 52.

Eligible Applicants

Assistance was provided only to the National Academy of Sciences, Washington, DC. No other applications were solicited.

The National Academy of Sciences (NAS) is the only organization that has a unique and special relationship with the Federal Government which has the ability to assemble committees and boards of the Nation's most eminent scholars, to furnish independent advice and guidance of the highest quality with an unparalleled level of objectivity. This combination of advice and objectivity is a succinct asset to the PHS in carrying out its mission.

Funding Level

$546,800, including direct and indirect costs, was awarded to the National Academy of Sciences for this cooperative agreement for a 12-month budget period with a project period of up to 5 years. Continuation awards

within the project period will be made on the basis of satisfactory performance and the availability of funds.

Purpose

The purpose of this cooperative agreement is to provide access by PHS to comments from board members regarding matters of interest to PHS, including independent advice on how complex issues might be defined and addressed in further studies and to shape an annual program of studies in the subject areas designed to address the problems and issues identified.

Program Requirements

During the period of this cooperative agreement, the federal substantial involvement will be as follows:

1. Meet with NAS to discuss plans for the activity of the Boards during the coming year;
2. Be in contact with NAS staff prior to Board meetings to discuss the agenda for board meetings; and
3. Attend presentations, when appropriate, to pursue specific ideas and suggestions generated by the Boards.

Evaluation Criteria

The application was reviewed and evaluated according to the following criteria:

A. Degree to which the applicant demonstrates their understanding of the problem and the purpose of the award.

B. Degree to which the objectives are consistent with the stated purpose of the application and the ability to meet the objectives within the specified period.

C. Adequacy of plans to monitor progress toward meeting the programs activities and objectives.

D. Degree to which the applicant demonstrates the capability to provide the staff and resources necessary to perform and manage the project.

E. Degree to which the budget is reasonable, adequately justified and consistent with the intended use of the grant funds.

Catalog of Federal Domestic Assistance Number

A Catalog of Federal Domestic Assistance Number is not required because the project is the only one to be funded in this activity.

Where to Obtain Additional Information

Additional information regarding this program can be obtained by contacting Cindy Oswald, Contract Specialist, General Acquisitions Branch, Division of Acquisition Management, ASC/OM, 5600 Fishers Lane, room 5–101, Rockville, MD 20857.

Programmatic technical assistance may be obtained from Melanie Timberlake, Office of Health Planning and Evaluation, HHH Building, room 740G, 200 Independence Ave. SW., Washington, DC 20001.

Dated: August 17, 1993.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 93–22053 Filed 9–9–93; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Statement of Organization, Functions and Delegation of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration. Chapter S1 covers the Deputy Commissioner for Finance, Assessment and Management. Notice is hereby given that subchapter S1R, the Office of Facilities Management, is being amended to reflect the realignment of division functions within that office. The changes are as follows: Section S1R.10 *The Office of Facilities Management*—(Organization):

Add:

F. The Division of Building Operations (S1RC). Section S1R.20 *The Office of Facilities Management*—(Functions):

D. The Division of Facilities (S1RA).

Delete:

1. through 5. In its entirety.

Add:

1. Directs the national SSA real property program including short- and long-range facilities planning; design, construction and leasing of central office and large field facilities; maintenance, repair and construction projects and policy development related to these operations. Oversees the preventive maintenance program for all Government-owned, SSA occupied buildings nationwide.

2. Provides technical guidance, consultation, coordination and advice on architectural and engineering design for SSA, manages a technical drafting service and design support function and provides an engineering resource to plan and review alterations, repairs and improvements to SSA facilities.

3. Develops and implements nationwide SSA policies, objectives, standards and procedures in the areas of real property and space management.

4. Provides SSA liaison on all matters concerning nationwide space and real property management, delegations of building operations and space acquisition with the General Services Administration (GSA), HHS, other Federal agencies and the Public Works Committees.

5. Provides automation support for SSA facilities management.

Add:

F. The Division of Building Operations (S1RC)

1. Has responsibility for SSA headquarters facility planning and space management. Acquires, utilizes and manages space at SSA headquarters and directs a comprehensive space inventory and utilization system.

2. Develops and implements policies, objectives, standards and procedures regarding SSA headquarters real property and space management.

3. Provides liaison on matters concerning SSA headquarters space and real property management including building operations and space acquisition with GSA, HHS and other Federal agencies, as necessary.

4. Directs real property program for headquarters central office including facilities planning; and maintenance, repair, and construction projects and policy development related to these operations.

Dated: August 24, 1993.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 93–22144 Filed 9–9–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–48]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Department of Health and Human Services:* Judy Breitman, Chief, Real Property Branch, Div. of Health Facilities Planning, Rm. 17A10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265; *Department of Interior:* Lola D. Knight, Property Management Specialist, 1849 C St. NW, Mailstop 5512-MIB, Washington, DC 20240; (202) 208-4080; *U.S. Air Force:* John Carr, Realty Specialist, HQ-AFBDA/BDR, Pentagon, Washington, DC 20330-5130; (703) 696-5569; (These are not toll-free numbers).

Dated: September 3, 1993.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 9/10/93

Suitable/Available Properties

Buildings (by State)

California

Quarters 1, TV 0001
950 Tennessee Valley Road
Mill Valley Co: Marin CA 94941-
Landholding Agency: Interior
Property Number: 619320002
Status: Unutilized
Comment: 828 sq. ft., 1 story wood frame residence, fair condition, off-site use only

Land (by State)

California

Airfield
Norton Air Force Base
San Bernardino Co: San Bernardino CA 92409-
Landholding Agency: Air Force-BC
Property Number: 199330023
Status: Excess
Base closure Number of Units: 1
Comment: approximately 1100 acres of land (airfield), scheduled to be vacated 3/31/94.

Folsom South Canal
SW corner of Whiterock Rd. & Folsom S Canal
Rancho Cordova Co: Sacramento CA 95670-
Landholding Agency: Interior
Property Number: 619310002
Status: Excess
Comment: 1.52 acres; perpetual easement over .25 acre, surrounding land use is commercial

Suitable/To Be Excessed

Land (by State)

Arizona

LAND—APO-GR-12-26A-09
120 Street and Mountain View
Scottsdale Co: Maricopa AZ 85259-
Location: South of Shea Boulevard and East of 120th Street
Landholding Agency: Interior
Property Number: 619240002
Status: Unutilized
Comment: 4.75 acres, easement restrictions, most recent use—acquired for construction of CAP canal.

New Mexico

Land, LPN Service Bldg.
1015 Indian School Road
Albuquerque Co: Bernalillo NM 87102-
Landholding Agency: HHS
Property Number: 579220001
Status: Unutilized
Comment: 0.2732 acres, underground lawn sprinkler, most recent use—maintenance yard, secured w/chain link fence.

Unsuitable Properties

Buildings (by State)

Arkansas

Winston Spring House
Garfield Co: Benton AR 72732-
Landholding Agency: Interior
Property Number: 619320001
Status: Excess
Reason: Other
Comment: Extensive deterioration

New Mexico

Farmington Office and Yard
900 La Plata Highway
Farmington Co: San Juan NM 87499-
Landholding Agency: Interior
Property Number: 619010001
Status: Unutilized
Reason: Within airport runway clear zone

Oregon

Eugene District Office Site
751 South Danebo
Eugene Co: Lane OR 97402-
Landholding Agency: Interior
Property Number: 619010003
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Land (by State)

Puerto Rico

119.3 acres
Culebra Island PR 00775-
Landholding Agency: Interior
Property Number: 619210001
Status: Excess
Reason: Floodway

[FR Doc. 93-21945 Filed 9-9-93; 8:45 a.m.]

BILLING CODE 4210-29-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-040-03-4212-14]

Proposed Plan Amendment; Vermillon Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to advise the public that the proposed planning amendment and associated environmental assessment for the Vermilion Management Framework Plan (VMFP), Kanab Resources Area, Cedar City District have been completed. The proposed decision provides for the sale of 240.37 acres of public land in Kane County, Utah, described below to Kanab City.

Salt Lake Meridian, Utah

T.43 S., R.6 W.,
Sec. 23 S½SE¼SE¼
Sec. 26, Lots 7, 8, S½SE¼NE¼, NE¼SW¼, E½SE¼.

DATES: The protest period for this plan amendment and decision will commence with the date of this notice. Protests must be submitted on or before October 12, 1993.

ADDRESSES: Protests should be addressed to the Director, Bureau of Land Management (760), MS 406 LS, 849 C Street NW., Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Verlin L. Smith, Area Manager, Kanab Resource Area Office, 318 North 100 East, Kanab, Utah 84741, telephone (801) 644-2612.

SUPPLEMENTARY INFORMATION: This plan amendment is nescessary since the existing plan does not identify this land for disposal. The environmental assessment does not identify any significant impacts. Resource values, public values, objectives involved, and the public interest would be served by providing these lands within the city limits of Kanab, Utah, to Kanab City through a noncompetitive sale consistent with the Omnibus Public Lands and National Forest Adjustments Act of 1988 (Public Law 100-699).

This action is announced pursuant to section 203 of the Federal Land Policy and Management Act of 1976 and 43 CFR, part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5-2. Protests must contain the following minimal information:

- The name, mailing address, telephone number, and interest of the person filing the protest.
- A statement of the issue or issues being protested.
- A statement of the part or parts being protested and a citing of pages, paragraphs, maps, etc., of the proposed plan amendment, where practical.
- A copy of all documents addressing the issue(s) submitted by the protester during the planning process or a reference to the date when the protester discussed the issue(s) for the record.
- A concise statement as to why the protester believes the BLM State Director's decision is in error.

G. William Lamb,

Acting State Director.

[FR Doc. 93-22054 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-020-4320-01]

Susanville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior; Susanville District Advisory Council, Susanville, California

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Bureau of Land Management's Susanville District Advisory Council will meet Tuesday, September 28, from 10 a.m. to 4 p.m. in the BLM's Susanville District Office, 705 Hall Street, Susanville, California.

Items on the agenda will include a discussion about the Department of the Interior's Rangeland Reform '94, an update on the Susanville District's progress in Ecosystem Management, an update on the District's Wild Horse and Burro management program, and a report on the BLM's proposal to withdraw lands in High Rock Canyon from mineral entry. BLM Area Managers will present reports on activities in their Resource Areas.

The meeting is open to the public and time will be provided on the agenda for public comment.

Summary minutes of the board meeting will be maintained in the Susanville District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Herrick E. Hanks,

District Manager.

[FR Doc. 93-22174 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-40-M

[OR-943-2300-02; GP3-382; OR-47632]

Order Providing for Opening of Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will open 2,280 acres of the 2,360 acres of acquired lands to surface entry, and 2,284 acres to mining and mineral leasing. The mineral estate in 76 acres is not in Federal ownership, and 80 acres are within the boundary of the Deschutes Wild and Scenic River withdrawal and will not be opened to surface entry.

EFFECTIVE DATE: October 15, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION:

1. Under the authority of section 205 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1715, the following described lands were acquired by the United States to be administered as public lands under the jurisdiction of the Bureau of Land Management:

Willamette Meridian

T. 2 S., R. 15 E.,
Sec. 14, S½NE¼, NW¼, and NW¼SW¼;
Sec. 15, SE¼NE¼ and NE¼SE¼;
Sec. 16, S½N½ and S½;
Sec. 17, that portion of the E½E½ described as follows: Beginning at the northeast corner of the SE¼NE¼; Thence west 330 feet; Thence southwesterly to a point on the south line of Sec. 17, said point being 1,055 feet west of the southeast corner of said Sec. 17; Thence east along the south line of Sec. 17, 1,055 feet, more or less, to the east line of Sec. 17; Thence north along the east line of Sec. 17 to the northeast corner of the SE¼NE¼ and the point of beginning;
Sec. 20, that portion of the NE¼ described as follows: Beginning at the northeast corner of Sec. 20; Thence west along the north section line of said Sec. 20 a distance of 1,056 feet; Thence southwesterly to a point on the north line of the south one-half of said Sec. 20, said point being 1,618 feet, more or less, from the east quarter corner of said Sec.

20; Thence east along said north line of the south half of Sec. 20, 1,618 feet, more or less, to the east quarter corner of Sec. 20; Thence north on the east section line of said Sec. 20 to the point of beginning;
Sec. 21, N½, S½S½, and NE¼SE¼;
Sec. 22, S½S½;
Sec. 23, that portion of the S½SW¼ lying west of the Deschutes River, excepting the right-of-way of the Oregon Trunk Railroad;
Sec. 26, W½NW¼ and NW¼SW¼, excepting the right-of-way of the Oregon Trunk Railroad;
Sec. 27, NE¼NE¼ and those portions of the E½SE¼ lying north of the Deschutes River, excepting the right-of-way of the Oregon Trunk Railroad;
Sec. 28, N½N½, S½NW¼, and N½S½.
The areas described aggregate approximately 2,360 acres in Wasco County.

2. The land lying within one-quarter mile of the river in the land described below is included in the withdrawal for the Deschutes Wild and Scenic River and will remain closed to surface entry:

Willamette Meridian

T. 2 S., R. 15 E.,
Sec. 23, that portion of the S½SW¼ lying west of the Deschutes River, excepting the right-of-way of the Oregon Trunk Railroad;
Sec. 26, NW¼SW¼, excepting the right-of-way of the Oregon Trunk Railroad;
Sec. 27, that portion of the E½SE¼ lying north of the Deschutes River, excepting the right-of-way of the Oregon Trunk Railroad.
The areas described aggregate approximately 80 acres in Wasco County.

3. The mineral estate in Sec. 20, T. 2 S., R. 15 E., W.M., is not in Federal ownership and will not be opened to mining and mineral leasing.

4. At 8:30 a.m., on October 15, 1993, the lands described in paragraph 1, except as provided in paragraph 2, will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m., on October 15, 1993, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m. on October 15, 1993, the lands described in paragraph 1, except as provided in paragraph 3, will be opened to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 8:30 a.m. on October 15, 1993, the lands described in paragraph 1, except as provided in paragraph 3, will be opened to applications and offers under the mineral leasing laws.

Dated: August 31, 1993.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93-22049 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-33-M

[WY-040-4210-05; WYW 128014]

Bureau Motion Recreation and Public Purposes (R&PP) Act Classification; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification.

SUMMARY: The following public lands near the community of Rock Springs, Wyoming have been examined and found suitable for classification and opening under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*) for the purpose of a proposed shooting range complex.

6th Principal Meridian

T. 17 N., R. 106 W.,
Sec. 14, E½, E½W½.
The area contains 480 acres more or less.

This action is a motion by the Bureau of Land Management to make available lands identified in the Big Sandy Management Framework Plan not needed for Federal purposes and having potential for disposal to support recreation. Lease or conveyance of the lands for recreational or public purpose use would be in the public interest. Detailed information concerning this classification is available for review at the office of the Bureau of Land Management, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act.

For a period of 45 days from the date of publication, interested persons may submit comments regarding the proposed classification of the lands to the Area Manager, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming 82901. Comments are restricted to whether the land is physically suited for a shooting range complex, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Upon the effective date of classification, the lands will be open to the filing of an application under the Recreation and Public Purposes by any interested, qualified applicant. If, after 18 months following the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the authorized officer.

Dated: August 27, 1993.

William W. LeBarron,

Area Manager.

[FR Doc. 93-22048 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-22-M

[AZ-050-03-4210-05; AZA 27798 and AZA 27895]

Realty Action, Recreation and Public Purposes Act Classification; La Paz County, AZ; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

In notice document 93-19021 appearing on page 42346 in the issue of Monday, August 9, 1993, in the first column, in the **SUMMARY**, in the twenty-third line, "T. 7 N., R. 16 W.," should read "T. 7 N., R. 17 W.,".

FOR FURTHER INFORMATION CONTACT: Karen Vercauteren, Realty Specialist, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

Dated: September 1, 1993.

Maureen A. Merrell,

Acting District Manager.

[FR Doc. 93-22152 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-32-M

[MT-070-4210-05; MTM181959]

Realty Action: Recreation and Public Purposes Act Classification; Montana

AGENCY: Bureau of Land Management, Butte District, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Beaverhead County, Montana, have been examined and found suitable for classification for lease or conveyance to the State of Montana under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The State of Montana proposes to use the lands for inclusion into the Bannack State Park and Historical Area.

Principal Meridian Montana

T. 8 S., R. 11 W.,
Section 5, Lots 4, 7, 8, SWNW, NWSW
Section 6, Lots 1–9, 11, S2NE, SENW
Section 7, Lots 1, 4, 5, 6, 8, 10, 11, 14, 16, 17, N2NESW, N2NWSE
Section 8, Lots, 4, 5, 6
T. 8 S., R. 12 W.,
Section 1, Lot 6
Section 12, E2NE
Containing 1006.05 acres more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest. A lease will be issued for those lands which may be encumbered. For those lands which are not encumbered or become unencumbered, a patent will be issued. The lease or patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. The lands will be conveyed subject to all valid, existing rights (e.g., rights-of-way, easements and leases of record).

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Dillon Resource Area, 1005 Selway Drive, Dillon, Montana 59725–9431.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Butte District Office, 106 North Parkmont, Box 3388, Butte, Montana 59702–3388.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a State park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a State park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register.**

Dated: September 2, 1993.

Orval L. Hadley,

Associate District Manager.

[FR Doc. 93–22148 Filed 9–9–93; 8:45 am]

BILLING CODE 4310–DN–M

[AZ-930-4210-06; AR-04756 and A-18780]

Proposed Modification and Continuation of Withdrawals; Opportunity for Public Comment, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to modify and continue for 20 years, Public Land Order 1556 of November 19, 1957 (AR–04756), as modified, and Secretarial Order of June 18, 1908 (A–18780), which withdrew National Forest System lands in the Prescott National Forest for use of the Forest Service as administrative sites, recreation areas, and roadside zones. The Forest Service proposes to continue the withdrawals for these purposes for 20 years, and does not anticipate any significant changes in land use. The land will remain closed to operation of the mining laws only.

DATES: Comments on this notice should be received by December 9, 1993.

ADDRESSES: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16565, Phoenix, Arizona, 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16565, Arizona, 85011, 602–650–0509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Public Land Order 1556 of November 19, 1957, as modified, and Secretarial Order dated June 18, 1908, withdrawing the lands from all forms of use for an indefinite period of time, be modified and continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described land within the Prescott National Forest in the State of Arizona. Some of the lands in Public Land Order 1556 were terminated or modified by Public Land Order 3878 of November 23, 1965. In addition, some acreage and legal descriptions have been changed due to new surveys, protraction surveys, and relotting. All land described below is located in Yavapai County, Arizona.

Gila and Salt River Meridian

Crown King Administrative Site (AR–04756)

T. 10 N., R. 1 W., unsurveyed,

Starting at Corner No. 1 of Estella patented mining claim covered by Mineral Survey No. 3187 and expected to be located in sec. 14, T. 10 N., R. 1 W., thence due East for a distance of 10 chains, thence due South for a distance of 20 chains, thence due West for a distance of 20 chains, thence due North for a distance of 20 chains, thence due East for a distance of 10 chains to point of beginning.

The area described contains 40 acres.

Granite Creek Recreation Area (AR–04756)

T. 13 N., R. 2 W.,
Sec. 16, W½E½NW¼, SE¼NW¼NW¼, E½SW¼NW¼, E½NW¼SW¼, SW¼NW¼SW¼, N½NE¼SW¼, SE¼NE¼SW¼, and NW¼SW¼SW¼.

The areas described contains 140 acres.

Groom Creek Administrative Site (AR–04756)

T. 13 N., R. 2 W.,
Sec. 26, Lot 28.

The area described contains 7.88 acres.

Hickey Mountain Summer Home Area, Potato Patch Picnic Area, and Lower Minqus Mountain Winter Sports Area (AR–04756)

T. 15 N., R. 2 E. unsurveyed,

Sec. 3, SW¼NW¼ and NW¼SW¼ (corrected description);
Sec. 4, S½NE¼ and N½SE¼ (corrected description).

The areas described contains 240 acres.

Hyde Mountain Lookout (AR–04756)

T. 17 N., R. 6 W.,
Sec. 20, S½SW¼SE¼;
Sec 29, N½NW¼NE¼

The areas described contains 40 acres.

Indian Creek Recreation Area (AR–04756)

T. 13 N., R. 2 W.,
Sec. 19, lots 12, 13, 19, and 20;
Sec. 20, lots 5, 12, and 13;
Sec. 29, lots 6 and 7;
Sec. 30, lot 5.

The areas described contains 441.37 acres.

Minqus Mountain Lookout, Minqus Mountain Recreation Area, Minqus Mountain Summer Home Area and Playgrounds Picnic Area (AR–04756)

T. 15 N., R. 2 E., unsurveyed,

Starting at Corner No. 6 of Homestead Entry Survey No. 92, expected to be located in secs. 3, 4, 9 and 10, thence due East for a distance of 50 chains, thence due South for a distance of 60 chains, thence due West for a distance of 130 chains, thence due North for a distance of 60 chains, thence due East for a distance of 80 chains to point of beginning.

The area described contains 662.84 acres.

Powell Springs Recreation Area (AR–04756)

T. 14 N., R. 3 E.,
Sec. 19, E½NE¼SW¼, NW¼SE¼, SW¼NE¼SE¼, N½SW¼SE¼, and NW¼SE¼SE¼.

The areas described contains 100 acres.

Spruce Mountain Lookout (AR–04756)

T. 13 N., R. 1 W.,
Sec. 31, NW¼SE¼.

The area described contains 40 acres.

Thumb Butte Recreation Area (AR–04756)

T. 14 N., R. 3 W.,
Sec. 36, lots 1, 2, SE¼NW¼NE¼, and NE¼SW¼NE¼.

The areas described contains 105.28 acres.

Tonto Springs Administrative Site (AR–04756)

T. 15 N., R. 4 W.,
Sec. 34, W½ lot 1, W½W½NW¼, W½NW¼SW¼ (corrected description).

The area described contains 80.475 acres.

Towers Mountain Lookout (AR–04756)

T. 10 N., R. 1 W., unsurveyed.,

Starting at the mineral survey corner designated as Corner No. 2 of the Bear patented mining claim and Corner No. 3 of the Kitty patented mining claim as shown on Mineral Survey No. 3010, thence due South along the West side of the Kitty patented claim a distance of 750 feet to the point of beginning, thence due South a distance of 20 chains, thence due West a distance of 20 chains, thence due North a distance of 20 chains, thence due East a distance of 20 chains to the point of beginning.

The area described contains 40 acres.

Wolf Creek Recreation Area (AR–04756)

T. 12½ N., R. 2 W., unsurveyed,
Sec. 22, N½ lot 2 (corrected description).
T. 13 N., R 2 W.,
Sec. 34, lots 15, 16, and 17.

The areas described contain 135.93 acres.

White Spar (U.S. No. 89) Highway, Roadside Zone (AR–04756)

A strip of land 300 feet on each side of the center line of U.S. Highway No. 89 through the following legal subdivisions:

T. 12½ N., R. 3 W.,
Sec. 23, lots 1, 2, SW¼SE¼, and SE¼SW¼;
Sec. 24, lots 2, 3 and 4;
Sec. 26, NW¼ and SW¼
Sec. 33, NW¼, SW¼ and SE¼;
Sec. 34, SW¼, SE¼ and NE¼;
Sec. 35, NW¼.
T. 13 N., R. 2 W.,
Sec. 16, NW¼ and SW¼;
Sec. 17, lot 16;
Sec. 19, lots 12, 13, and 20;
Sec. 20, lots 1, 2, 3, 4, 5, and 6;
Sec. 30, lots 5, 10, 11, 12, 15, 16, and 17;
Sec. 31, lot 8.
T. 13 N., R. 3 W.,
Sec. 25, lots 3 and 4;
Sec. 35, SE¼;
Sec. 36, NE¼, SE¼ and SW¼.

The area described contains 753.84 acres.

Prescott-Ashfork (U.S. No. 89) Highway Roadside Zone (AR–04756)

A strip of land 200 feet on each side of the center line of U.S. Highway No. 89 through the following legal subdivisions:

T. 18 N., R. 1 W.,
Sec. 6, NE¼, NW¼ and SW¼.
T. 18 N., R. 2 W., unsurveyed;
Sec. 1, SE¼;
Sec. 12, NE¼, SE¼, and SW¼;
Sec. 13, NW¼ and SW¼;
Sec. 14, SE¼;
Sec. 23, NE¼, NW¼, and SW¼.
T. 19 N., R. 1 W.,
Sec. 6, NE¼ and SE¼;
Sec. 7, NE¼ and SE¼;
Sec. 17, NW¼ and SW¼;
Sec. 18, NE¼ and SE¼;
Sec. 20, NW¼ and SW¼;
Sec. 29, NW¼ and SW¼;
Sec. 31, NE¼ and SE¼;
Sec. 32, NW¼.
T. 20. N., R. 1 W.,
Sec. 31, NE¼, NW¼, and SE¼.

The areas described contains 581.24 acres.

New Black Canyon Highway—Cordes Junction to Flagstaff, Roadside Zone (AR–04756)

A strip of land 200 feet on each side of the center line of the Cordes Junction to Flagstaff section of the New Black Canyon Highway, through the following legal subdivisions:

T. 12 N., R. 3 E.,
Sec. 3, NE¼, NW¼ and SE¼;
Sec. 10, NE¼, SE¼, and SW¼;
Sec. 15, NW¼;
Sec. 16, NE¼ and NW¼;
Sec. 17, NE¼, SE¼, and SW¼;
Sec. 20, NE¼, NW¼, and SW¼;
T. 13 N., R. 3 E.
Sec. 1, SE¼ and SW¼;
Sec. 2, SE¼;
Sec. 11, NE¼ and SE¼;
Sec. 14, NE¼ and SW¼;
Sec. 15, SE¼;
Sec. 22, NE¼, SE¼, and SW¼;
Sec. 27, NW¼;
Sec. 28, NE¼ and SE¼;
Sec. 33, NE¼, SE¼, and SW¼.
T. 13 N., R. 4 E.,
Sec. 3, NE¼SE¼;
Sec. 7, lots 2 and 3;
Sec. 8, NW¼, SW¼, and SE¼;
Sec. 9, NE¼, NW¼, and SW¼;
Sec. 10, NE¼ and NW¼.
T. 14 N., R. 4 E.,
Sec. 25, NW¼ and SW¼;
Sec. 26, SE¼;
Sec. 34, SE¼;
Sec. 35, NE¼, NW¼, and SW¼.

The areas described contains 952.99 acres.

Mingus Mountain Highway (U.S. Hwy. No. 89A) Roadside Zone (AR–04756)

A strip of land 200 feet on each side of the center line of the Mingus Mountain Highway, U.S. Highway 89A, through the following legal subdivisions:

T. 15 N., R. 2 E., unsurveyed,
Sec. 3, NW¼ and SW¼;
Sec. 4, NE¼, SE¼ and SW¼;
Sec. 8, NE¼ and SE¼;
Sec. 9, NE¼ and NW¼;
Sec. 17, NE¼, SE¼, and SW¼;
Sec. 18, SE¼ and SW¼;
T. 16 N., R. 2 E.,
Sec. 13, SE¼;
Sec. 22, NE¼ and SE¼;
Sec. 23, NE¼, SE¼ and SW¼;
Sec. 24, NE¼ and NW¼;
Sec. 27, NE¼ and NW¼;
Sec. 28, all;
Sec. 32, NE¼ and SE¼;
Sec. 33, NW¼ and SW¼.

The areas described contains 592.84 acres.

Senator Highway (Forest Road No. 52) Roadside Zone (AR–04756)

A strip of land 300 feet on each side of the center line of the Senator Highway, Forest Highway No. 52, through the following legal subdivisions:

T. 13 N., R. 2 W.,
Sec. 14, lots 4, 12, 13, and 14;
Sec. 15, lots 1, 8, and 9;
Sec. 23, lots 3, 4, 6, 7, 10, and 14;
Sec. 26, lots 20, 26, 33 and 34;
Sec. 35, lots 5, 6, 7, 8, 14, 15, and 16.
T. 12½ N., R. 2 W.,
Sec. 23, lots 2, 3, 5 and 6 (corrected description);
Sec. 26, NE¼ and SE¼.

The areas described contains 358.44 acres.

Tonto Springs Administrative Site (A–18780)

T. 15 N., R. 4 W.,
Sec. 33, lots 2, 3, and 4, NE¼, NE¼SW¼, N½SE¼.

The areas described contain 399.45 acres.

The areas described in this publication aggregates 5,712.575 acres. The purpose of these withdrawals is to protect U.S. Forest Service administrative sites, recreation areas and roadside zones from prospecting

and possible disturbances caused by mining. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with these proposed actions may present their views in writing to this office. The authorized officer of the BLM will undertake such investigation as is necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration to determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of a final determination will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Herman Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 93-22151 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-32-M

[AZ-930-4210-06; A-19128, A-19129, A-18097, A-2183, A-5883 and A-6882]

Proposed Modification, Continuation and/or Termination of Withdrawals; Opportunity for Public Comment, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, generally proposes to modify and continue, 2 Secretarial Orders and 4 Public Land Orders which withdrew public land and National Forest System land in the Kaibab National Forest for use of the Forest Service as administrative sites, campgrounds, range station and game preserves. It is proposed that portions of two Public Land Orders be terminated. The Forest Service proposes to continue the withdrawals for these purposes for 20 years, and does not anticipate any significant changes in land use. All of the land will remain closed to operation of the mining laws. In addition, land identified under case files A-19129 and A-18097 will remain closed to all forms of appropriation under the public land laws.

DATES: Comments on this notice should be received by December 9, 1993.

ADDRESSES: Comments should be addressed to the Arizona State Director, BLM, P.O. Box 16565, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16565, Phoenix, Arizona 85011, 602-650-0509.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that Secretarial Order of February 26, 1907 (A-19128), Secretarial Order of August 22, 1908 (A-19129), Public Land Order 832 of May 21, 1952 (A-18097), Public Land Order 4565 of January 16, 1969, Public Land Order 5030 of March 20, 1971 (A-5883), and Public Land Order 5472 of January 31, 1975 (A-6882), withdrawing the lands for an indefinite period of time, be modified and continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described land within the Kaibab National Forest. All land described below is located in Coconino County, Arizona.

Gila and Salt River Meridian

Hull Tank Administrative Site No. 2 (A-19128)

T. 30 N., R. 4 E.,
Sec. 22, lots 1 and 2, NW¼NE¼, S½NE¼, SE¼.

The area described contains 314 acres. The Forest Service has recommended the withdrawal be continued on 240 acres and terminated on 74 acres that lie within the Grand Canyon National Park.

Big Springs Administrative Site (A-19129)

T. 37 N., R. 1 W.,
Sec. 12, partial (metes and bounds).
Sec. 13, partial (metes and bounds).

The area described contains 124 acres.

Fredonia Administrative Site (A-18097)

T. 41 N., R. 2 W.,
Sec. 21, S½SE¼NW¼, N½NE¼SE¼.

The area described contains 40 acres of public land lying outside of the Kaibab NF boundary.

Ten X Campground (A-2183)

T. 29 N., R. 2 E.,
Sec. 1, lots 1 and 2,
T. 30 N., R. 2 E.,
Sec. 36, S½NE¼, SE¼NW¼, E½SE¼, SW¼,
T. 30 N., R. 3 E.,
Sec. 31, lot 4.

The area described contains 478.31 acres.

Kaibab Lake Campground (A-2183)

T. 22 N., R. 2 E.,
Sec. 14, S½SW¼NW¼, E½NE¼NW¼, SE¼NW¼, NE¼, SW¼, W½SE¼, NE¼SE¼,
Sec. 15, S½SE¼NE¼, E½SE¼.

The area described contains 620 acres.

Parks Campground (A-2183)

T. 22 N., R. 4 E.,
Sec. 22, lots 1, 2, 7 and 8,
Sec. 27, lots 5, 15, 16, 17, 18, 20, 21 and 22.

The area described contains 272.60 acres. The entire area has been recommended for termination since it is no longer needed for the purpose it was withdrawn.

Dogtown Campground (A-5883)

T. 21 N., R. 2 E.,
Sec. 12, S½NE¼, S½.

The area described contains 400 acres

Chalender and Williams Ranger Station (A-5883)

T. 22 N., R. 2 E.,
Sec. 27, SE¼, portions thereof.

The area described contains 15.5 acres, more or less. The entire area has been recommended for termination since the land is no longer needed for the purpose it was withdrawn.

Lambs Lake Game Preserve (A-6882)

T. 38 N., R. 1 E.,
Sec. 13, MS 1655 as located in lots 3, 5, and 6,
Sec. 14, MS 1655 as located in lots 1, 2, 3, and 4.

The area described contains 98.03 acres.

Three Lakes Game Preserve (A-6882)

T. 37 N., R. 2 E.,
Sec. 6, SW¼NE¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, NW¼NE¼SE¼, NE¼NW¼SE¼.

The area described contains 80 acres.

The areas described in this publication aggregates 2,442.44 acres. The purpose of these withdrawals is to protect U.S. Forest Service administrative sites, campgrounds, ranger station and game preserves from prospecting and possible disturbances caused by mining. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with these proposed actions may present their views in writing to this office. The authorized officer of the BLM will undertake such investigation as is necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration to determine whether or not the withdrawal will be modified, terminated or continued and, if continued, for how long. Notice of a final determination will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Herman Kast,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 92-22150 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit 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-782246

Applicant: George Riley, Farmington Hills, MI.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. V.L. Pringle, "Huntley Glen", Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-782370

Applicant: Craig Leerberg, Colorado Springs, CO.

The applicants requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. V.L. Pringle, "Huntley Glen", Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-782430

Applicant: Stephen G. Barry, Jr., Atlantis, FL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. L. Tonks, "Sondagsrivierhoek", Graaf Reinet, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-781544

Applicant: Circus Tihany, Sarasota, FL.

The applicant requests a permit to export and reimport one captive-born female Asian elephant (*Elephas maximus*) for circus performances, during which the applicant intends to inform the public of the Asian elephant's ecological role and conservation needs.

PRT-780849

Applicant: Sidney Wilhite, West Monroe, LA.

The applicant requests a permit to import a sport-hunted mountain zebra (*Equus zebra zebra*) trophy from South Africa for the purpose of enhancement of propagation and survival of the species.

PRT-779622

Applicant: William P. Deschner, Fort Wayne, IN.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from South Africa for the purpose of enhancement of propagation and survival of the species.

PRT-781179

Applicant: Richard Pickard, North Miami Beach, FL.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of enhancement of propagation and survival of the species.

PRT-778674

Applicant: Mareen D. Waterman, Queenstown, MD.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of enhancement of propagation and survival of the species.

PRT-781481

Applicant: Roy Montgomery, Jacksonville, FL.

The applicant requests a permit to import a sport-hunted cheetah (*Acinonyx jubatus*) trophy from Namibia for the purpose of enhancement of propagation and survival of the species.

PRT-782328

Applicant: Henry Doorly Zoo, Omaha, NE.

Applicant requests a permit to import serum, urine, and fecal samples of the Sumatran rhino (*Dicerorhinus sumatrensis*) from Malaysia for scientific purposes.

PRT-782329

Applicant: David McBrayer, Seattle, WA.

Applicant requests a permit to import a sport-hunted shapo (*Ovis vignei vignei*) trophy from India for the purpose of enhancement of propagation and survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: September 3, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93-22112 Filed 9-9-93; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-XXXX), Washington, DC 20503, telephone 202-395-7340.

Title: Pumpout and Dump Station Survey

OMB Approval Number: New collection

Abstract: The Clean Vessel Act of 1992, subtitle F, section 5603 (b), authorizes the Secretary of the Interior to develop a plan for any construction or renovation of pumpout stations and waste reception facilities that are necessary to ensure that there are adequate pumpout stations and waste reception facilities in the States that are adequate and reasonably available to meet the needs of recreational boaters. The Act further directs that each coastal State shall conduct a survey to determine: (1) The number and location of all operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks and other boating facilities within the coastal zone of the State; and (2) the number of recreational vessels in the coastal waters with Type III marine sanitation devices or portable toilets and the areas where such vessels congregate. Under section 5603 (a), the coastal States must conduct such a survey, and may receive funds under the Grant Program in section 5604 (c) for conducting the survey.

Service Form Number(s):

Frequency: One time only survey

Description of Respondents: State governments, Individuals and households, and marina operators

Estimated Completion Time: The reporting burden is estimated to average .17 (10 minutes) per response, including time for reviewing instructions.
Annual Responses: 176,665
Annual Burden Hours: 30,033
Service Clearance Officer: Phyllis H. Cook, 703–358–1943 Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240

Dated: August 19, 1993.

M.J. Spear,

Assistant Director, Ecological Services.

[FR Doc. 93–22047 Filed 9–9–93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0004), Washington, DC 20503, telephone 202–395–7340.

Title: Nonferrous Metals Surveys
OMB approval number: 1032–0004
Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Surveys, Volumes I, II, and III of the Minerals Yearbook, and Mineral Commodity Summaries for use by private organizations and other Government agencies.
Bureau form number: 6–1151–MA et al (30 forms)
Frequency: Monthly, Quarterly, and Annual
Description of respondents: Producers and consumers of nonferrous metals
Annual responses: 10,955
Annual burden hours: 12,980
Bureau clearance officer: Alice J. Wissman 202–501–9569.

Dated: July 29, 1993.

Jerome F. Hayes,

Acting Chief, Division of Statistics and Information Services.

[FR Doc. 93–22051 Filed 9–9–93; 8:45 am]

BILLING CODE 4310–53–M

National Park Service

Petroglyph National Monument Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Petroglyph National Monument Advisory Commission will be held at 2 p.m., Friday, October 15, 1993, at the City Council Chambers, City Hall, Albuquerque Civic Plaza, 4th and Grand, Albuquerque, New Mexico.

The Petroglyph National Monument Advisory Commission was established pursuant to Public Law 101–313, establishing Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

The matters to be discussed at this meeting include:

—Superintendent's Update on Activities
—Change in Advisory Commission Charter
—General Management Plan Update
—New Business
—Public Comment

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed at the commission meeting with the Superintendent, Petroglyph National Monument.

Persons who wish further information concerning the meeting, or who wish to submit written statements may contact Stephen Whitesell, Superintendent, Petroglyph National Monument, 123 4th Street, SW., room 101, Albuquerque, New Mexico 87102, telephone 505/766–8375.

Minutes of the commission meeting will be available for public inspection six weeks after the meeting at the office of Petroglyph National Monument.

Dated: September 1, 1993.

John Cook,

Regional Director, Southwest Region.

[FR Doc. 93–22203 Filed 9–9–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: September 7, 1993.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) MFA Incorporated

(2) 615 Locust Street, Columbia, MO 65201

(3) 615 Locust Street, Columbia, MO 65201

(4) Ann Simpson, 615 Locust Street, Columbia, MO 65201

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22133 Filed 9–9–93; 8:45 am]

BILLING CODE 7035–01–M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. Parent corporation and address of principal office:

Browning-Ferris Industries, Inc., 757 N. Eldridge, Houston, Texas 77079 ..... Delaware.

Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

1. Acco International, Inc ..... Texas.
2. Acco Waste Disposal, Inc ..... Texas.
3. Acco Waste Paper, Inc ..... Texas.
4. Action Disposal System, Inc ..... Minnesota.
5. Arbor Hills Center for Resource Management, Inc ..... Delaware.
6. Azusa Land Reclamation Co., Inc ..... California.
7. BFI Acquisition Company ..... Ohio.
8. BFI Constructors ..... California.
9. BFI Disposal Systems of Alabama, Inc ..... Delaware.
10. BFI Disposal Systems of Florida, Inc ..... Florida.
11. BFI Disposal Systems of Georgia, Inc ..... Delaware.
12. BFI Disposal Systems of Mississippi, Inc ..... Delaware.
13. BFI Disposal Systems of North America, Inc ..... Delaware.
14. BFI Disposal Systems of North Carolina, Inc ..... Delaware.
15. BFI Disposal Systems of Ohio, Inc ..... Delaware.
16. BFI Fountain Landfill, Inc ..... Colorado
17. BFI Medical Waste Systems of Arizona, Inc ..... Delaware.
18. BFI Medical Waste Systems of California, Inc ..... Georgia
19. BFI Medical Waste Systems of Colorado, Inc ..... Delaware.
20. BFI Medical Waste Systems of Illinois, Inc ..... Delaware.
21. BFI Medical Waste Systems of Iowa, Inc ..... Iowa.
22. BFI Medical Waste Systems of Minnesota, Inc ..... Minnesota
23. BFI Medical Waste Systems of New Jersey, Inc ..... New Jersey
24. BFI Medical Waste Systems of Oregon, Inc ..... Delaware.
25. BFI Medical Waste Systems of Utah, Inc ..... Delaware.
26. BFI Medical Waste Systems of Washington, Inc ..... Delaware.
27. BFI Medical Waste Systems of Niagara Frontier, Inc ..... New York
28. BFI Medical Waste Systems of (Atlantic), Inc ..... Delaware.
29. BFI Medical Waste Systems of (Northeast), Inc ..... Delaware.
30. BFI Medical Waste Systems of Steel, Inc ..... Delaware.
31. BFI Medical Waste Systems of (South Central), Inc ..... Tennessee
32. BFI Medical Waste Systems of (Southeast), Inc ..... Delaware.
33. BFI Memphis Recyclery, Inc ..... Tennessee.
34. BFI Modern Landfill, Inc ..... Illinois.
35. BFI Northern Transfer ..... Delaware.
36. BFI Palisades, Inc ..... New Jersey.
37. BFI Recycling Systems of Minnesota, Inc ..... Minnesota.
38. BFI Recycling of Nebraska, Inc ..... Nebraska.
39. BFI Recycling of New Jersey, Inc ..... New Jersey.
40. BFI Riverside, Inc ..... California.
41. BFI of Albion, Inc ..... New York.
42. BFI of Metro New York, Inc ..... Delaware.
43. BFI of North Metro, Inc ..... Michigan.
44. BFI Organic Waste Services, Inc ..... Connecticut.
45. BFI Services Group, Inc ..... California.
46. BFI Tire Recyclers of Georgia, Inc ..... Georgia.
47. BFI Tire Recyclers of Minnesota, Inc ..... Minnesota.
48. BFI Tire Recyclers of Ohio, Inc ..... Ohio.
49. BFI Transfer Systems of Maryland, Inc ..... Maryland.
50. BFI Transfer Systems of New Jersey, Inc ..... New Jersey.
51. BFI Twin Cities Recyclery, Inc ..... Minnesota.
52. BFI Waste Systems, Inc ..... Texas.
53. BFI Waste Systems of Michigan, Inc ..... Delaware.
54. BFI Waste Systems of Ohio, Inc ..... Delaware.
55. BFI Whispering Oaks Sanitary Landfill, Inc ..... Missouri.
56. BFI Wood Resource of Jacksonville, Inc ..... Florida.
57. Bio-Medical Services Corp ..... Georgia.
58. Bio-Tech Services, Inc ..... Missouri.
59. Blount County Disposal, Inc ..... Alabama.
60. Brooks Disposal Service, Inc ..... Illinois.
61. Browning-Ferris, Inc ..... Delaware.
62. Browning-Ferris, Inc ..... Maryland.
63. Browning-Ferris Industries Chemical Services, Inc ..... Nevada.
64. Browning-Ferris Industries Waste Control, Inc ..... Delaware.
65. Browning-Ferris Industries, Inc ..... Massachusetts.
66. Browning-Ferris Industries of Alabama, Inc ..... Alabama.
67. Browning-Ferris Industries of Arizona, Inc ..... Delaware.
68. Browning-Ferris Industries of Arkansas, Inc ..... Arkansas.
69. Browning-Ferris Industries of Atlanta, Inc ..... Delaware.
70. Browning-Ferris Industries of California, Inc ..... California.
71. Browning-Ferris Industries of Central Jersey, Inc ..... Delaware.
72. Browning-Ferris Industries of Colorado, Inc ..... Colorado.
73. Browning-Ferris Industries of Connecticut, Inc ..... Delaware.

74. Browning-Ferris Industries of Eagle, New York, Inc	Texas.
75. Browning-Ferris Industries of Elizabeth, N.J., Inc	New Jersey.
76. Browning-Ferris Industries of Falls Township, Inc	Pennsylvania.
77. Browning-Ferris Industries of Florida, Inc	Delaware.
78. Browning-Ferris Industries of Georgia, Inc	Georgia.
79. Browning-Ferris Industries of Hawaii, Inc	Delaware.
80. Browning-Ferris Industries of Idaho, Inc	Idaho.
81. Browning-Ferris Industries of Illinois, Inc	Delaware.
82. Browning-Ferris Industries of Indiana, Inc	Indiana
83. Browning-Ferris Industries of Iowa, Inc	Iowa.
84. Browning-Ferris Industries of Kansas, Inc	Kansas.
85. Browning-Ferris Industries of Kansas City, Inc	Missouri.
86. Browning-Ferris Industries of Kentucky, Inc	Delaware.
87. Browning-Ferris Industries of Long Island, Inc	New York.
88. Browning-Ferris Industries of Maine, Inc	Delaware.
89. Browning-Ferris Industries of Marion County, Inc	Delaware.
90. Browning-Ferris Industries of Michigan, Inc	Michigan.
91. Browning-Ferris Industries of Minnesota, Inc	Minnesota.
92. Browning-Ferris Industries of Mississippi, Inc	Mississippi.
93. Browning-Ferris Industries of Montana, Inc	Nevada.
94. Browning-Ferris Industries of Nebraska, Inc	Nebraska.
95. Browning-Ferris Industries of New Hampshire, Inc	New Hampshire.
96. Browning-Ferris Industries of New Jersey, Inc	New Jersey.
97. Browning-Ferris Industries of New York, Inc	New York.
98. Browning-Ferris Industries of North Jersey, Inc	New Jersey.
99. Browning-Ferris Industries of Ohio, Inc	Delaware.
100. Browning-Ferris Industries of Ohio and Michigan, Inc	Ohio.
101. Browning-Ferris Industries of Oregon, Inc	Oregon.
102. Browning-Ferris Industries of Owensboro, Inc	Delaware.
103. Browning-Ferris Industries of Oyster Bay, Inc	Delaware.
104. Browning-Ferris Industries of Paterson, N.J., Inc	New Jersey.
105. Browning-Ferris Industries of Pennsylvania, Inc	Delaware.
106. Browning-Ferris Industries of Philadelphia, Inc	Pennsylvania.
107. Browning-Ferris Industries of Pinal County, Inc	Arizona.
108. Browning-Ferris Industries of Quincy, Illinois, Inc	Iowa.
109. Browning-Ferris Industries of Rhode Island, Inc	Delaware.
110. Browning-Ferris Industries of Rochester, Inc	Minnesota.
111. Browning-Ferris Industries of South Atlantic, Inc	North Carolina.
112. Browning-Ferris Industries of South Jersey, Inc	New Jersey.
113. Browning-Ferris Industries of Southern Illinois, Inc	Delaware.
114. Browning-Ferris Industries of Southeastern Michigan, Inc	Michigan.
115. Browning-Ferris Industries of Southwest Virginia, Inc	Virginia.
116. Browning-Ferris Industries of Southwestern Jersey, Inc	New Jersey.
117. Browning-Ferris Industries of Springfield, Inc	Missouir.
118. Browning-Ferris Industries of St. Louis, Inc	Delaware.
119. Browning-Ferris Industries of Tennessee, Inc	Tennessee.
120. Browning-Ferris Industries of Utah, Inc	Utah.
121. Browning-Ferris Industries of Vermont, Inc	Vermont.
122. Browning-Ferris Industries of Washington, Inc	Washington.
123. Browning-Ferris Industries of West Virginia, Inc	Delaware.
124. Browning-Ferris Industries of Western Jersey, Inc	New Jersey.
125. Browning-Ferris Industries of Wisconsin, Inc	Wisconsin.
126. Browning-Ferris Industries of Wyoming, Inc	Wyoming.
127. Butts County Development Corp	Georgia.
128. CECOS International, Inc	New York.
129. CMS Development Corp	North Carolina.
130. Condor Waste Transportation, Inc	Texas.
131. Disposal Specialists, Inc	Vermont.
132. Dooley Equipment Corporation	Massachusetts.
133. E&E Hauling, Inc	Illinois.
134. East DeKalb Landfill, Inc	Georgia.
135. EnviroMed, Inc	Massachusetts.
136. Escatawpa Environmental Services, Inc	Mississippi.
137. Geneva Waste Services, Inc	New York.
138. George Fenske Sanitary Service, Inc	Minnesota.
139. Hall's Ferry Investments, Inc	Missouri.
140. Hawk Ridge Compost Facility, Inc	Maine.
141. Hawk Ridge Farms, Inc	Maine.
142. Heavy Equipment Leasing Services Co., Inc	New York.
143. Health Management, Inc	Tennessee.
144. Health Management of New Orleans, Inc	Louisiana.
145. Hennepin Transfer, Inc	Minnesota.
146. Holly Springs Disposal, Inc	North Carolina.
147. Homestead Land Corp	Pennsylvania.
148. Hooksett Recycling & Processing Center, Inc	New Hampshire.
149. HL-NIW, Inc	New York.

150. Imperial Landfill Company, Inc	Pennsylvania.
151. International Disposal Corp. of California	California.
152. Isler's Refuse Service, Inc	Ohio.
153. Jefferson Pike Landfill, Inc	Tennessee.
154. Karas Trucking Co., Inc	Ohio.
155. Keller Canyon Landfill Company	California.
156. Lancaster Bio-Medical Services Group	Pennsylvania.
157. Land Reclamation, Inc	New York.
158. Lawrence County Disposal, Inc	Alabama.
159. Loma Linda Disposal, Inc	California.
160. Lorain County Resource Recovery Complex, Inc	Delaware.
161. Louis Kmito & Son, Inc	Massachusetts.
162. Lyon Development Co	Michigan.
163. Marble Mill Recycling and Transfer Station, Inc	Georgia.
164. Merrimack Valley Medical Services Company, Inc	Massachusetts.
165. Middle Tennessee Recyclery, Inc	Tennessee.
166. Mon Valley Sanitary Landfill, Inc	Pennsylvania.
167. Moreland Avenue Disposal, Inc	Georgia.
168. National Disposal Service of Nebraska, Inc	Nebraska.
169. New Morgan Landfill Company, Inc	Pennsylvania.
170. Newco Waste Systems, Inc	New York.
171. Newco Waste Systems of New Jersey, Inc	New Jersey.
172. Niagara Landfill, Inc	New York.
173. Niagara Recycling, Inc	New York.
174. Niagara Sanitation Company, Inc	New York.
175. Ninety Plus, Inc	Louisiana.
176. Northern Disposal, Inc	Massachusetts.
177. Philadelphia Bio-Medical Services Corp	Pennsylvania.
178. Pine Bend Landfill, Inc	Minnesota.
179. Pleasant Hill Bayshore Disposal, Inc	California.
180. Port of Albany Medical Waste Facility New York, Inc	New York.
181. RPS, Inc	Colorado.
182. Rx Thermal of Colorado, Inc	Colorado.
183. Refuse Transfer, Inc	Minnesota.
184. Regional Landfill, Inc	Texas.
185. Residential Service, Inc	Nebraska.
186. Resource Conservation Services, Inc	Maine.
187. Resource Recovery Corporation	Massachusetts.
188. River City Refuse Removal, Inc	Wisconsin.
189. Sampson County Disposal, Inc	North Carolina.
190. South Alabama Disposal, Inc	Alabama.
191. Springfield Relay Systems, Inc	Missouri.
192. TRC, Inc	Pennsylvania.
193. T.R.A.S.H., Inc	Tennessee.
194. Town and Country Waste Service, Inc	Wisconsin.
195. Troy Area Landfill, Inc	Wisconsin.
196. Van Buren Services, Inc	New York.
197. Walker County Disposal, Inc	Alabama.
198. West Roxbury Crushed Stone Co	Massachusetts.
199. Westowns Disposal Systems, Inc	Wyoming.
200. Wood Resource Recovery, Inc	Florida.
201. Woodlake Sanitary Service, Inc	Minnesota.
202. Youngstown BFI Waste Systems, Inc	Ohio.

B. 1. Parent Corporation—Smith-Rogers Oil Co., Inc.—Hwy 76 West, P.O. Box 308 Mullins, SC 29574. (mc-190159)
2. Subsidiaries—Tiger Mart Inc. S–R Transport Inc.—South Carolina

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 93–22132 Filed 9–9–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–88 (Sub–No. 6)]

Bessemer and Lake Erie Railroad Company—Abandonment and Discontinuance of Trackage Rights in Erie County, PA; Findings

The Commission has issued a certificate authorizing Bessemer and Lake Erie Railroad Company (B&LE) to abandon a 0.95-mile line of railroad between milepost 21.34 (B&LE sta −9+76.5) and milepost 22.29 (B&LE sta 40+35) and to discontinue trackage rights over 12.2 miles of rail line owned by Norfolk and Southern Railroad Company between B&LE sta 5580+66.9 and B&LE sta −9+76.5, in Erie County, PA. The abandonment and discontinuance certificate will become effective October 10, 1993, unless the Commission finds that (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate B&LE.

Any offers of financial assistance must be filed with the Commission and B&LE no later than September 20, 1993. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Section of Legal Counsel, AB–OFA." Any offer previously made must be remade within the 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: August 30, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Vice

Chairman Simmons dissented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22290 Filed 9–10–93; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32346]

EASX Corp., D/B/A EASX Railroad Corp.; Acquisition and Operation Exemption; The Three Rivers Railway Co. and CSX Transportation, Inc.

EASX Corporation, d/b/a EASX Railroad Corporation (EASX), a noncarrier, has filed a notice of exemption: (1) To acquire and operate approximately 3.24-miles of rail line at or near New Castle, PA, owned by the Three Rivers Railway Company, a wholly-owned carrier subsidiary of CSX Transportation, Inc. (CSXT). The involved lines consist of two branches: (a) The "New Castle Branch" which begins at New Castle Branch Monumented Base Line (MBL) at survey Station 10+00, opposite the former Pittsburgh and Lake Erie Railroad Company's (P&LE) Main Line MBL Survey Station 2580+10, and extends in a generally northeasterly direction to the former P&LE Valuation Station 146+10; and (b) the "Big Run Branch" which begins at P&LE New Castle Branch Baseline of Survey at Survey Station 84+44, and extends in a generally southwesterly direction to the connection with trackage of CSXT; and (2) to lease from CSXT (with an option to purchase) and operate approximately 0.7-miles of rail line known as the "Sample Spur" which begins at Valuation Station 2+00 off of CSXT's main line between Cumberland, MD, and Willard, OH, and continues in a generally northwardly direction to Valuation Station 40+75.7.[1] The transaction was expected to be consummated after the August 30, 1993, effective date of the exemption.[2]

Any comments must be filed with the Commission and served on: Betty Jo Christian, Steptoe & Johnson, 1330 Connecticut Ave., NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. 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.

Decided: September 1, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22131 Filed 9–9–93; 8:45 am]

BILLING CODE 7035–01–M

[1] EASX is acquiring these lines in order to provide rail service to the New Castle manufacturing facility of its affiliate, East Railcar Corporation.

[2] EASX anticipates that, by the time of consummation, it will enter into an operating agreement with ISS Railroad, Inc. (ISS), an unaffiliated class III rail carrier, which will initially operate the New Castle Lines and Sample Spur on behalf of EASX. ISS will, of course, be required to file for approval or exemption to operate the line if such an agreement is reached.

[Finance Docket No. 32330]

New Hampshire Northcoast Corp.; Acquisition Exemption; Boston and Maine Corp., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343–44 the purchase by New Hampshire Northcoast Corporation of two segments of line in New Hampshire totaling about 17.77 route miles. The segments, owned by Boston and Maine Corporation and Springfield Terminal Railway Company, are between milepost 69.83, at or near Rollinsford, and milepost 80.30, at or near Rochester, and between milepost D–9.72, at or near Rochester, and milepost D–17.0, at or near Farmington. The exemption is subject to standard employee protective conditions.

DATES: This exemption will be effective on October 10, 1993. Petitions to stay must be filed by September 27, 1993, and petitions to reopen must be filed by October 5, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32330 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, (2) Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, NW., Suite 400, Washington, DC 20036, and (3) John R. Nadolny, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862.

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

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. [Assistance for the hearing impaired is available through TDD service (202) 927–5721].

Decided: August 27, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22129 Filed 9–9–93; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32321]

Southern Gulf Railway Company—Construction Exemption—In Calcasieu Parish, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 Southern Gulf Railway Company's construction of about 4 miles of rail line near Westlake, Calcasieu Parish, LA. The proposed transaction involves construction of a rail line running southwesterly and southerly from a second industrial track leading from the Roy S. Nelson Generating Station Unit 6 (Nelson Unit 6), operated by Gulf States Utilities Company (GSU), to a main line of Southern Pacific Transportation Company (SP). The exemption is subject to the results of the Commission's environmental review of the proposal.

DATES: On completion of all environmental review, the Commission will issue a further decision addressing those matters and making the exemption effective at that time, if appropriate. Petitions to reopen must be filed by September 30, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32321 to (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, (2) John R. Molm, NationsBank Plaza, suite 5200, 600 Peachtree Street, NE., Atlanta, GA 30308–2216, and (3) William D. Moeller, Gulf States Utilities Company, P.O. Box 2951, Beaumont, TX 77704.

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

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. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: August 27, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–22310 Filed 9–9–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersede as decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

Kentucky
KY930054 (Sept. 10, 1993)

Tennessee
TN930046 (Sept. 10, 1993)

Volume III

Colorado
CO930019 (Sept. 10, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Kentucky
KY930001 (Feb. 19, 1993)
KY930002 (Feb. 19, 1993)
KY930029 (Feb. 19, 1993)
KY930030 (Feb. 19, 1993)
KY930031 (Feb. 19, 1993)
KY930032 (Feb. 19, 1993)
KY930033 (Feb. 19, 1993)
KY930034 (Feb. 19, 1993)
KY930035 (Feb. 19, 1993)
KY930036 (Sept. 3, 1993)
KY930037 (Sept. 3, 1993)
KY930038 (Sept. 3, 1993)
KY930039 (Sept. 3, 1993)
KY930040 (Sept. 3, 1993)
KY930041 (Sept. 3, 1993)
KY930042 (Sept. 3, 1993)
KY930043 (Sept. 3, 1993)
KY930045 (Sept. 3, 1993)
KY930046 (Sept. 3, 1993)
KY930047 (Sept. 3, 1993)
KY930049 (Sept. 3, 1993)
KY930050 (Sept. 3, 1993)
KY930051 (Sept. 3, 1993)
KY930053 (Sept. 3, 1993)

New Jersey
NJ930002 (Feb. 19, 1993)
NJ930003 (Feb. 19, 1993)
NJ930004 (Feb. 19, 1993)
NJ930007 (Feb. 19, 1993)

New York
NY930013 (Feb. 19, 1993)

Tennessee
TN930005 (Feb. 19, 1993)

Virginia
VA930005 (Feb. 19, 1993)
VA930008 (Feb. 19, 1993)
VA930018 (Feb. 19, 1993)
VA930033 (Feb. 19, 1993)
VA930034 (Feb. 19, 1993)
VA930036 (Feb. 19, 1993)
VA930039 (Feb. 19, 1993)
VA930046 (Feb. 19, 1993)
VA930047 (Feb. 19, 1993)
VA930051 (Feb. 19, 1993)
VA930069 (Feb. 19, 1993)
VA930085 (July 9, 1993)

West Virginia
WV930001 (Feb. 19, 1993)
WV930002 (Feb. 19, 1993)
WV930003 (Feb. 19, 1993)
WV930005 (Feb. 19, 1993)

Volume II

Illinois
IL930019 (Feb. 19, 1993)

Indiana
IN930001 (Feb. 19, 1993)
IN930002 (Feb. 19, 1993)
IN930003 (Feb. 19, 1993)
IN930004 (Feb. 19, 1993)
IN930005 (Feb. 19, 1993)

IN930018 (Feb. 19, 1993)
Kansas
KS930005 (Feb. 19, 1993)
Michigan
MI930007 (Feb. 19, 1993)
Missouri
MO930001 (Feb. 19, 1993)
Texas
TX930019 (Feb. 19, 1993)

Volume III

California
CA930004 (Feb. 19, 1993)
Montana
MT930009 (Aug. 6, 1993)
MT930010 (Aug. 6, 1993)
MT930011 (Aug. 6, 1993)
MT930012 (Aug. 6, 1993)
MT930013 (Aug. 6, 1993)
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MT930019 (Aug. 6, 1993)
MT930020 (Aug. 6, 1993)
Utah
UT930001 (Feb. 19, 1993)
UT930004 (Feb. 19, 1993)
UT930005 (Feb. 19, 1993)
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UT930011 (Feb. 19, 1993)
UT930013 (Feb. 19, 1993)
UT930015 (Feb. 19, 1993)
UT930020 (Feb. 19, 1993)
UT930023 (Feb. 19, 1993)
UT930031 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 3rd day of September 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93-22000 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-28,697]

Agrico Chemical Co. Mulberry, FL; Notice of Affirmative Determination Regarding Application for Reconsideration

On August 5, 1993, the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on July 19, 1993 and published in the **Federal Register** on August 10, 1993 (58 FR 42577).

The company submitted an additional list of customers and claims that the former Soviet Union (FSU) is dumping phosphate fertilizers into the U.S.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 30th day of August 1993.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-22176 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,786]

Douglas Aircraft Co. Torrance, CA Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition TA-W-28,786 which was published in the **Federal Register** on July 7, 1993 (58 FR 36422) in FR Document 93-15996.

A printing error concerning the location of Douglas Aircraft Company (TA-W-28,786) appears in the 4th line of the second column in the appendix table on page 36422. The location should read "Torrance, California" instead of Phoenix, Arizona.

Signed in Washington, DC, this August 30, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-22179 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of August, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Durametal Corp (Wkrs)	Muncy, PA	08/23/93	08/23/93	28,970	Refiner Plates.
Penco of Lyndhurst (CWU)	Lyndhurst, NJ	08/23/93	08/17/93	28,971	Various Chemicals.
AT&T (IBEW)	Westminster, CO	08/23/93	08/09/93	28,972	PBX Units.
Springfield Sportswear (Wkrs)	Coal Township, PA	08/23/93	08/11/93	28,973	Dresses and Skirts.
Ithaca Industries (Wkrs)	Edison, GA	08/23/93	08/17/93	28,974	Mens' Underwear.
Patent Scaffolding Co. (Wkrs)	Uniontown, PA	08/23/93	08/13/93	28,975	Scaffolds.
RHN Corporation (Co)	Canastota, NY	08/23/93	08/09/93	28,976	Automotive Plastic Parts.
People Pool, Inc., (The) (Co)	Canastota, NY	08/23/93	08/09/93	28,977	Automobile Services.
MAS Cutting Inc. (Wkrs)	Pittston, PA	08/23/93	08/11/93	28,978	Ladies' Dresses.
Formosa Exploration, Inc. (Wkrs)	Riddle, OR	08/23/93	08/10/93	28,979	Copper and Zinc Concentrates.
Alumax Extrusions, Inc. (USWA)	Dunkirk, NY	08/23/93	08/03/93	28,980	Aluminum Extrusions.
Cyprus Sierrita Corp. (Wkrs)	Green Valley, AZ	08/23/93	08/05/93	28,981	Copper.
Abrasive Technology, Inc. (Wkrs)	Southbridge, MA	08/23/93	07/23/93	28,982	Abrasives.
Intelogic Trace, Inc., (Wkrs)	San Antonio, TX	08/23/93	08/09/93	28,983	Repair Computers.
Carole Hochman Designs (ACTWU)	Mifflinburg, PA	08/23/93	08/13/93	28,984	Warehouse Services.

[FR Doc. 93-22175 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,839]

General Dynamics Fort Worth Division, Fort Worth, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 6, 1993 in response to a worker petition which was filed on July 6, 1993 on behalf of workers at General Dynamics, Fort Worth Division, Fort Worth, Texas.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-28,821). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 31st day of August, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-22181 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,440, TA-W-27,440A, TA-W-27,440B]

Geotrace Technologies, Inc. a/k/a Daniel Geophysical, Inc. Headquartered in Denver, CO and Operating Out of the Following Locations: Houston, and Dallas, TX; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Geotrace Technologies, Inc., in the above mentioned locations. The certification notice was published in the **Federal Register** on September 9, 1992 (57 FR 41153).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that some of the claimants' wages for Geotrace Technologies, Inc., are being reported under Daniel Geophysical, Inc., a firm which Geotrace recently purchased.

Accordingly, the Department is amending the certification to properly reflect the correct worker groups.

The amended notice applicable to TA-W-27,440 is hereby published as follows: All workers of Geotrace Technologies, Inc., a/k/a Daniel Geophysical, Inc., Headquartered in Denver, Colorado and operating out of Houston, Texas and Dallas, Texas who became totally or partially separated from employment on or after June 19, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this September 1, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-22184 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,748]

GTI Corp. Hadley, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at GTI Corporation, Hadley, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-28,748; GTI Corporation
Hadley, Pennsylvania (August 20, 1993)

Signed at Washington, DC this 31st day of August, 1993.

Marvin M. Fooks,

Director, Office of Adjustment Assistance.

[FR Doc. 93-22178 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the

Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of the Trade Adjustment Assistance, at the address shown below, not later than September 20, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 30th day of August, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Julie Fashion I (Wkrs)	Minersville, PA	08/30/93	08/14/93	28,985	Ladies' Jackets.
Southern Shipbuilding Corp. (Wkrs)	Slidell, LA	08/30/93	08/17/93	28,986	Ship Building & Repair.
Reynolds Metals Co. (AFAC)	Longview, WA	08/30/93	08/18/93	28,987	Aluminum.
Weeks Exploration Co. (Wkrs)	Houston, TX	08/30/93	08/19/93	28,988	Oil & Gas Exploration, Production.
Quite Valley Forest Products, Inc. (Wkrs)	Myrtle Point, OR	08/30/93	08/16/93	28,989	Veneer for Plywood.
Tennessee Shirt Works, Inc. (Wkrs)	Lawrenceburg, TN	08/30/93	08/18/93	28,990	Ladies Blouses and Shirts.
Tennessee Shirt Works, Inc. (Wkrs)	Fayettsville, TN	08/30/93	08/18/93	28,991	Ladies Blouses and Shirts.
New London Oil, Inc. (Wkrs)	San Antonio, TX	08/30/93	08/20/93	28,992	Crude Oil.
Lennox Industries, Inc. (Wkrs)	Columbus, OH	08/30/93	08/20/93	28,993	Air Conditioners & Parts.
El Paso Refining, L.P. (OCAW)	El Paso, TX	08/30/93	08/16/93	28,994	Refined Petroleum Products.
Crown Cork & Seal Co. (IAMAW)	Baltimore, MD	08/30/93	08/13/93	28,995	Beverage Fillers Machinery.
Cooper Industries, Pennsylvania (IUE)	Easton, PA	08/30/93	08/06/93	28,996	Specialty Reciprocal Compressors.
AGIP Petroleum Co., Inc. (Wkrs)	Houston, TX	08/30/93	08/20/93	28,997	Crude Oil.
Chalk Line, Inc. (Wkrs)	Shelbyville, TN	08/30/93	08/17/93	28,998	Men's and Boys' Outerwear.
Phillips Petroleum Co. (Wkrs)	Lafayette, LA	08/30/93	07/31/93	28,999	Natural Gas and Oil.
Pennsylvania Optical (Wkrs)	Reading, PA	08/30/93	08/06/93	29,000	Reading Glasses.
Dow Chemical Co. (Wkrs)	Midland, MI	08/30/93	08/12/93	29,001	Chemicals.

[FR Doc. 93-22185 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,545]

NERCO, Incorporated Headquarters, Portland, OR; Negative Determination Regarding Application for Reconsideration

By an application dated August 12, 1993, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on July 2, 1993 and was published in the **Federal Register** on July 27, 1993 (58 FR 40161).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers were engaged in employment related to administrative functions for their subsidiaries.

The workers were denied certification because they did not produce an article within the meaning of the Trade Act of 1974. The workers were informed, however, that they may be certified if their separation was caused importantly by a reduced demand for their services from a firm related to it by ownership or control. In any event, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification. These conditions were not met for workers at NERCO, Inc. in Portland, Oregon.

Company officials state that the NERCO, Inc., workers in Portland, Oregon should be certified eligible for TAA if workers at other NERCO firms were to become certified on reconsideration.

Investigation findings, however, show that the reduced demand for NERCO's Headquarters unit's services does not meet the minimum threshold requirements for certification. There is only one NERCO production facility whose workers are certified eligible for TAA—NERCO Minerals in Portland, Oregon (TA-W-28,544). Further, workers at NERCO Oil & Gas, Inc., in Houston, Texas, TA-W-28,597; Lafayette, Louisiana, TA-W-28,673; Black Lake, Louisiana, TA-W-28,674 and Berwick, Louisiana, TA-W-675 were denied certification on application for reconsideration on August 4, 1993.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 1st day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-22186 Filed 9-9-93; 8:45 a.m.]

BILLING CODE 4510-30-M

[TA-W-28,760]

Target Sportswear, Inc., Kent II Plant, Curwensville, PA; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated August 16, 1993, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial Notice was signed on August 5, 1993 and published in the **Federal Register** on August 17, 1993 (58 FR 43656).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the Kent II plant produced military jackets for the U.S. Air Force and that their contract with the Air Force was completed.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. This test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey revealed that the customer for whom the Kent II plant performed contract work did not purchase imported military jackets in the relevant periods.

When work runs out the company would normally have two options: (1) Move other work to the affected plant or (2) transfer the affected employees to another production facility. However, the company states that these options were not available because of the impact of imports at their other locations.

The lack of work at other plants or the inability to transfer employees to other production facilities for whatever reason would not provide a basis for a worker group certification—only increased imports of articles that are like or directly competitive with the article produced by the workers' firm or appropriate subdivision of the firm which contribute importantly to declines in sales or production and employment may serve as a basis for certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 30th day of August 1993.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 93-22177 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,781]

Villa Fashions, Incorporated Shenandoah, PA; Affirmative Determination Regarding Application for Reconsideration

On August 18, 1993, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was published in the **Federal Register** on August 17, 1993 (58 FR 43656).

The petitioner stated that the Department's survey was inadequate and submitted additional information.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 1st day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-22187 Filed 9-9-93; 8:45 am]

BILLING CODE 4510-30-M

Reauthorization of the Targeted Jobs Tax Credit Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATES: The reauthorization of the TJTC program is effective for individuals hired after June 30, 1992.

SUMMARY: The Targeted Jobs Tax Credit (TJTC) program offers employers a tax credit against their tax liability for hiring individuals from nine targeted groups who have traditionally had difficulty in obtaining and holding jobs.

The previous TJTC program authorization, the result of a six-month extension under the Tax Extension Act of 1991 (Pub. L. 102-227), expired on June 30, 1992. The program has been reauthorized for an additional thirty (30) months by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, August 10, 1993). The reauthorization is effective for employees who begin work for the employer after June 30, 1992 (retroactive to July 1, 1992). Eligible employees may be certified provided the requirement for a timely request for certification has been met and all other appropriate information is provided.

The TJTC program is administered by the U.S. Department of Labor's Employment and Training Administration, the Internal Revenue Service (IRS) of the Treasury Department and the U.S. Department of Education's Office of Vocational and Adult Education.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Schaerfl, Director, U.S. Employment Service/Employment and Training Administration, 200 Constitution Ave., NW., room N-4470, Washington, DC 20210. Telephone 202-219-5257. For general TJTC program information contact: local office of any State Employment Security Agency (SESA). Such offices are called either Employment Service offices or Job Service offices and can usually be found in telephone directories under State government listings. Also, contact schools that offer vocational, adult or cooperative education programs or any local IRS office.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, August 10, 1993) reauthorizes the TJTC program for thirty (30) months through December 31, 1994. No modifications in the program were included in the new law. Procedural guidance in the form of an Employment Service Program Letter (ESPL) is being issued by the U.S. Department of Labor/ Employment and Training Administration, to State Employment Security Agencies. Any necessary changes to the program will also be incorporated, as appropriate, in forthcoming changes to ET Handbook No. 377, 5th Edition, August 1991, "Targeted Jobs Tax Credit Program."

Employers who hire individuals in the targeted groups may claim a credit of 40 percent of wages up to $6,000 per employee for a maximum credit of

$2,400. The value of the credit employers can claim for economically disadvantaged summer youth employees hired between May 1 and September 15 is 40 percent of wages up to $3,000 for a maximum credit of $1,200.

The nine target groups served under the program are:

—People with disabilities who have been referred to employers from approved State rehabilitation programs or from the Department of Veterans Affairs,
—Youth aged 18–22 from economically disadvantaged families,
—Economically disadvantaged Vietnam-era veterans,
—Recipients of Federal Supplemental Security Income,
—Recipients of State and local general assistance payments for at least 90 days,
—Youth aged 16 to 19 who are from economically disadvantaged families and participate in a qualified cooperative education program,
—Economically disadvantaged ex-convicts who are hired no later than five years after the date of release from prison or the date of conviction, whichever is more recent; an individual is to be treated as convicted, if placed on probation without a finding of guilty having been made (deferred adjudication),
—Recipients of Aid to Families with Dependent Children who are eligible for such assistance on the hiring date and have received assistance for 90 days immediately prior to being hired, and
—Economically disadvantaged youth who are 16 and 17 years of age on the hiring date, have not previously worked for the employer and are hired for a summer job.

Signed at Washington, DC, this 7th day of September 1993.

Doug Ross,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 93–22183 Filed 9–9–93; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: In the **Federal Register** notices listed below, the Mine Safety and Health Administration (MSHA) announced the receipt of several petitions for modification of the application of mandatory safety standard 30 CFR 75.1200(d) (mine map) to underground anthracite mines. MSHA has determined that these requests concerning the spacing of lines on contour maps can be addressed under 30 CFR 75.1200–1(m) rather than through the petition process. Accordingly, MSHA has ceased review of the following petitions in regard to 30 CFR 75.1200(d): M–93–91–C, M–93–100–C, M–93–106–C, M–93–112–C, M–93–119–C, M–93–128–C, M–93–136–C, and M–93–140–C published on July 22, 1993 (58 FR 39234); M–93–155–C published on July 23, 1993 (58 FR 39569); M–93–164–C, M–93–170–C, M–93–177–C, M–93–186–C, and M–93–195–C published on August 3, 1993 (58 FR 41294); and M–93–206–C published on August 24, 1993 (58 FR 44699).

Dated: September 2, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93–22182 Filed 9–9–93; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before October 25, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. United States Commission on Improving the Effectiveness of the United Nations (N1–220–93–12). Transcribed audiotapes.

2. Christopher Columbus Quincentenary Jubilee Commission (N1–220–93–9). Comprehensive records schedule.

3. Railroad Retirement Board, Bureau of Unemployment and Sickness Insurance (N1–184–93–7). Routine and facilitative records.

4. Railroad Retirement Board (N1–184–93–4). Taxation Update Listings.

5. Department of the Army (N1–AU–93–3). Input worksheets and printouts relating to the Medical Expense and Performance Reporting System.

6. Department of the Army (N1–AU–93–4). DNA specimen registry files.

7. Department of the Army (N1–AU–93–5). Routine administrative records of the Exceptional Family Member Program.

8. Executive Office of the President, Office of National Drug Control Policy (N1–429–93–3). Public opinion mail.

9. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs (N1–59–93–30). Routine and facilitative records relating to environment, health, and natural resources.

10. Department of Energy, Office of the Federal Inspector (N1–434–93–7). Working papers, field logs, and correspondence relating to facilitative matters.

11. Department of Justice, Office of Special Counsel for Unfair Immigration Practices (N1–60–92–3). Copies of forms submitted to the Immigration and Naturalization Services by aliens declaring their intention to become citizens.

12. Department of Energy, Bonneville Power Administration (N1–305–91–1). Image processing and computer assisted mapping systems.

13. National Commission on Judicial Discipline and Removal (N1–220–93–11). Drafts to interim and final reports.

Dated: August 31, 1993.

Raymond A. Mosley,

Acting Archivist of the United States.

[FR Doc. 93–22052 Filed 9–9–93; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a master permit application for the U.S. Antarctic Program (USAP), submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before October 12, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Peter R. Karasik at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 40 CFR part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a banned substance or designated pollutant in Antarctica, and for the release of waste in Antarctica. NSF has received a master permit application under this Regulation which covers USAP activities in these areas. The permit applicants are:

Co-Applicants

U.S. Naval Support Force, Antarctica, Building 836, Construction Battalion Center, 651 Lyon Street, Port Hueneme, California 93043–4345

Antarctic Support Associates, 61 Inverness Drive East, Suite 300, Englewood, California 80112;

the permit application applies to USAP activities at all of its facilities in Antarctica; and the proposed duration of the permit is from August 15, 1993 through September 30, 1994.

Activity for Which Permit Requested

The Naval Support Force, Antarctica (NSFA) and Antarctic Support Associates (ASA) provide broad based logistical and technical support services to the U.S. Antarctic Program (USAP). NSFA duties include procurement, transport to Antarctica, and storing and tracking materials and storing and tracking waste, including hazardous waste, in Antarctica. NSFA also manages fuel operations including fuel storage, distribution and resupply.

ASA operations include procuring, transporting to Antarctica, and tracking materials containing designated pollutants that are required for USAP operations, NSF and NSF grantees. ASA is also responsible for the daily management of hazardous and nonhazardous waste materials and providing training and technical guidance documents for waste management practices.

Peter Karasik,

Associate Compliance Manager.

[FR Doc. 93–22055 Filed 9–9–93; 8:45 am]

BILLING CODE 7555–01–M

Permit Declined Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit declined under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits declined under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On July 22, 1993 the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was denied to Langdon B. Quetin on September 2, 1993.

Thomas F. Forhan,

Permit Office, Office of Polar Programs.

[FR Doc. 93–22115 Filed 9–9–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 04008989]

Envirocare of Utah, Inc.; Availability of the Envirocare Final Environmental Impact Statement

1. Description of Proposed Action—Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has published the Final Environmental Impact Statement (FEIS) regarding the Envirocare of Utah, Inc., license action. The FEIS documents the environmental consequences of granting Envirocare of Utah, Inc., a license to receive, store, and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act, as amended) received from other persons, at a site near Clive, Tooele County, Utah. The FEIS also documents the NRC staff response to public comments received on the Draft EIS.

The applicant proposes to dispose of high-volume, low-activity 11e.(2) byproduct material received in bulk by rail and truck. The material will be placed in earthen disposal cells in lifts and covered with earth and rock. The applicant proposes to conduct operations on a site where the applicant currently disposes of Naturally Occurring Radioactive Material and Low-Level radioactive waste under licenses from the Utah Department of

Health, Bureau of Radiation Control. The State of Utah, however, does not have the authority to regulate the disposal of section 11e.(2) byproduct material, which remains with the Nuclear Regulatory Commission (NRC).

2. Document Availability—A **Federal Register** Notice by the U.S. Environmental Protection Agency will also be issued advising of the availability of this FEIS. A free single copy of final NUREG–1476 may be requested by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution Section, room P–368B, Washington, DC 20555. A copy is also available for inspection and/or copying in the NRC Public Document Room, 2120 L St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sandra L. Wastler, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–2582.

Dated at Rockville, MD, this 2nd day of September 1993.

For the Nuclear Regulatory Commission.

Myron H. Fliegel,

Acting Branch Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, NRC.

[FR Doc. 93–22141 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power & 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 Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation, et al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would revise Technical Specification 5.2.A to change the current containment drywell pressure of 62 psig to the new design pressure of 44 psig and the current containment drywell temperatures of 175 °F to the new design temperature of 292 °F. Related changes to Technical Specification Bases are also proposed. Unrelated editorial changes to the bases of Technical Specification 3.4 and 3.5 are also proposed.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated July 22, 1991, as supplemented February 14, 1992, August 19, 1992, and July 12, 1993.

Need for the Proposed Action

The proposed changes to the Facility Operating License are needed because it is a part of GPU Nuclear Corporation's comprehensive program to address the corrosion of the Oyster Creek drywell.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the licensee's proposal to change the current containment drywell pressure of 62 psig to the new design pressure of 44 psig and the current containment drywell temperatures of 175 °F to the new design temperature of 292 °F. The licensee also proposes to change the related Technical Specification Bases.

Based on its review of the licensee's analyses and the licensee's statement that the analyses have been performed in accordance with the Standard Review Plan, the staff finds that the licensee's proposed change to reduce the current containment drywell pressure of 62 psig to the new design pressure of 44 psig and the current containment drywell temperatures of 175 °F to the new design temperature of 292 °F is acceptable. The Commission has determined that the proposed changes do not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems utilized to mitigate the design basis accidents.

The proposed changes do not increase the probability or consequences of accidents. No change is being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve components in the plant which are located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concludes that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the action would be to deny the amendment requested. Such action would not enhance the protection of the environment.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff consulted with the State of New Jersey regarding the environmental impact of the proposed action.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see the application for amendment dated July 22, 1991, as supplemented February 14, 1992, August 19, 1992, and July 12, 1993, which are available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Md., this 2nd day of September 1993.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick,

Acting Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–22140 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

Meeting of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2, GPU Nuclear Corp.

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the

Decontamination of Three Mile Island, Unit 2 (TMI–2) will be holding its final meeting on September 23, 1993, from 7 p.m.–10 p.m. at the Harrisburg Hotel, Center City, 23 South Second Street, Harrisburg, Pennsylvania. The meeting will be open to the public.

At this meeting, the Panel will receive a presentation from GPU Nuclear Corporation on the status of preparations for long-term storage of TMI–2. GPU Nuclear will also discuss the recent completion of the disposal of the accident generated water, and the status of their decommissioning fund. The Nuclear Regulatory Commission staff will discuss the results of a study on costs to decommission a pressurized light water reactor, and a study on the Advisory Panel for the Decontamination of Three Mile Island, Unit 2.

Further information on the meeting may be obtained from Dr. Michael Masnik, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–1191.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–22143 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–245, 50–336]

Northeast Utilities; (Millstone Nuclear Power Station) (License Nos. DPR–21, DPR–65); Receipt of Petition for Director's Decision under 10 CFR 2.206

Notice is hereby given that by Petition dated August 7, 1993, Anthony J. Ross (Petitioner) has requested that the Executive Director for Operations take escalated enforcement action with regard to alleged violations at Millstone Nuclear Power Station Unit 1. Specifically, Mr. Ross requests that a Severity Level II violation be issued against his department manager and a Severity Level III violation be issued against his first-line supervisor for apparent violation of the provisions of 10 CFR 50.7, that sanctions be instituted against these individuals for engaging in deliberate misconduct as described in 10 CFR 50.5, and that the first-line supervisor be removed from his position until a satisfactory solution to the problem can be achieved. As grounds for this request, the Petitioner asserts he continues to be subjected to harassment, retaliation and discrimination by his first-line supervisor and department manager for raising concerns to these individuals regarding work by the first-line supervisor on an emergency lighting system without a work order.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of Enforcement. As provided by § 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of this Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Md., this 15th day of September 1993.

For the Nuclear Regulatory Commission.

Joseph R. Gray,

Deputy Director, Office of Enforcement.

[FR Doc. 93–22139 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit 3); Exemption

I

Commonwealth Edison Company (CECo, the licensee) is the holder of Facility Operating License No. DPR–25 which authorizes operation of the Dresden Nuclear Power Station, Unit 3 (the facility) at a steady-state power level not in excess of 2527 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Grundy County, Illinois. The licensee provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in affect.

II

By letter dated May 14, 1993, as supplemented June 30, 1993, CECo requested a schedular exemption for Dresden, Unit 3, from the Type A, B, and C leak rate test intervals required by 10 CFR part 50, Appendix J, Sections III.A.6(b), III.D.2(a), and III.D.3. The exemption was requested to support the Dresden, Unit 3, refueling outage schedule and to avoid the potential for an earlier (6 month) reactor shutdown.

CECo is rescheduling the Dresden, Unit 3, refueling outage from September 1993 to February 1994 and has requested a maximum exemption of up to 190 days, for the most extreme case, from the Appendix J test intervals for Type A, B, and C testable volumes for the penetrations that can not be tested during operation.

III

In their letter dated May 14, 1993, as supplemented June 30, 1993, CECo requested a one-time exemption from the Type A, B, and C test interval requirements of Appendix J for the primary containment enclosure and certain volumes (i.e., bellows, manway gasket seals, flanges, and isolation valves) identified in Attachments II and III of their submittal. CECo stated that these volumes can not be tested while the reactor is at power and provided the basis for this conclusion in Attachment IV of their submittal.

CECo provided leakage test results and maintenance information on these volumes for the past two testing programs. The current maximum pathway leakage rate for Dresden, Unit 3, as determined through Type B and C leak rate testing, is 275.12 standard cubic feet per hour (scfh). This value is approximately 56% of the Technical Specification limit of 488.45 scfh ($0.6L_a$). In addition, the previous outage "As Left" total minimum pathway leakage rate for Type B and C testable penetrations was 145.71 scfh. The D3R12, "As Left" Integrated Leak Rate Test, completed on March 16, 1992, indicated that the primary containment overall integrated leakage rate, which obtains the summation of all potential leakage paths including containment welds, valves, fittings, and penetrations, was 0.6706 wt%/day. This value is the sum of the 95% upper confidence limit calculated leak rate of 0.5545 wt%/day plus the leakage rate of all nonvented pathways and the leakage compensation for the change in the drywell sump levels. This value is approximately 56% of the limit specified in the Technical Specifications (1.2 wt%/day or $0.75\ L_a$).

In order to provide an added margin of safety and to account for possible increases in the leakage rates of untested volumes during the relatively short period of the exemption, Dresden Nuclear Power Station, Unit 3, will impose an administrative limit for maximum pathway leakage of 80% of $0.6L_a$ for the remaining Unit 3 fuel cycle.

To reduce the number of volumes which need an exemption, CECo will test the volumes listed in Attachment V of their submittal during reactor operation. In addition, volumes listed in Attachment III of their submittal will be tested should a forced outage of suitable duration occur prior to March 15, 1994.

The staff has reviewed CECo's submittal regarding the Appendix J test interval exemption request. Based on the above discussion, the staff finds that for the component volumes identified in Attachments II and III of CECo's submittal, an exemption from the local leak rate (LLRT) test frequency specified in Appendix J should be granted based on the following.

1. Testing has shown low "as found" leakage during the past two outages. The ample margin between the measured leakage and the allowable leakage should accommodate any degradation likely to be experienced for these components during the extended period.

2. The intent of Appendix J was that Type A, B, and C testing be performed during a refueling outage. It is not the intent of Appendix J to require a shutdown solely for surveillance testing. The exemption would provide relief from the requirements of Appendix J to allow a test interval extension for these components which only became necessary as a result of rescheduling the Unit 3, Cycle 13, refueling outage.

3. Although a 190 day extension has been requested, many of the affected volumes will need an exemption for a much shorter time.

Regarding the extension of the Type A test interval beyond 18 months, the following justifications are presented:

1. At the time the pertinent requirements of Appendix J were established (1973), the typical nuclear power plant fuel cycle lasted 12 months. Section III.A.6.(b) could have been written to simply require a Type A test at every refueling outage, but it was felt that a numerical cap should be put on the interval to prevent extreme cases of very long intervals between tests caused by extended shutdowns or operation at reduced power. An 18-month cap was reasonable for 12-month fuel cycles, but with today's 18- and 24-month fuel cycles, it clearly is not sufficient. The intent of III.A.6.(b) is to increase the testing frequency for a containment that exhibits leakage problems, but not to increase it so much that special shutdowns are required. Refueling outages are the only reasonable times to perform Type A tests, since most plants do not have extended shutdowns at other times. Considering today's longer fuel cycles, the staff's current thinking is that the 18-month cap should reasonably be changed to 30 months.

2. Dresden, Unit 3, failed its D3R12 Type A test as a result of several major contributing factors. The As Left Maximum Pathway Leakage Rate, as measured through Type B and C local leak rate testing, was 485.43 scfh after the D3R11 refuel outage. This value represents 99% of the Technical Specification Limit for Maximum Pathway Leakage (0.61_a). The As Left Maximum Pathway Leakage Rate for Type B and C local leak rate testing was 284.54 scfh after the D3R12 refueling outage. The value represents 58% of the Technical Specification Limit for Maximum Pathway Leakage. This reduction in Type B and C is viewed as part of the corrective actions that will help prevent future As Found Type A failures since the Type B and C leakage rate is used as a maintenance indication of overall primary containment isolation valve performance that contributes to passing As Found ILRTs.

An additional contributing factor for the failure of the D3R12 As Found Type A test was the failure of the HPCI Turbine Exhaust Valve 3–2301–45 which was found to have an undetermined leakage rate when Type C tested. This pathway contains another valve between the torus and the exhaust check valve; however, it is not Type C testable and all leakage is assumed to be past valve 3–2301–45. Therefore, this valve is considered a single valve pathway since there is no redundant isolation valve in the pathway which can be Type C tested. Examination of the failed valve identified that the viton seat of the dual-disk check valve was torn. The valve was replaced and was successfully leak rate tested prior to the Unit start up. This valve failure was attributed to excessive cycling caused by operating the HPCI turbine at 1000 rpm during the monthly surveillance testing. Turbine exhaust pressure at 1000 rpm is approximately 7 psig. The low exhaust pressure causes the 3–2301–45 valve to cycle excessively. Following D3R12, interim corrective actions were to increase the HPCI pump discharge pressure. This increased the amount of steam flow through the turbine. This action reduced the cycling but did not eliminate it completely. HPCI operating procedure changes were made to increase the HPCI turbine warm-up speed to 2500 rpm. The exhaust pressure at 2500 rpm is approximately 13 psig which eliminates valve cycling. These changes were made to the operating procedures in February 1993. Future actions planned by the licensee include further revisions to the operating procedures as well as changes to the opening pressure of the valve. These corrective measures taken should reduce the chances of D3R13 failing the As Found Type A test.

Based on the above, the staff finds that the licensee's corrective actions have reduced the likelihood of excessive leakage during the extension of the Type A test interval. Further, considering the intent of the 18-month interval cap and its relation to longer fuel cycles, the staff finds that the safety benefit to be derived from performing a Type A test at 18 months rather than 24 months does not justify the hardship of a forced plant shutdown. Therefore, that staff finds that the requested Type A interval exemption should be granted.

IV

Based on the above, the staff concludes that the licensee's proposed extension of the test intervals for test components identified in its submittal is acceptable. This is a one-time exemption from the Type A, B, and Type C test interval requirements as prescribed in Appendix J, and is intended to be in effect until March 15, 1994. This approval is based on the assumption that all other tests will be conducted in accordance with the requirements of Appendix J.

The Commission's regulations at 10 CFR 50.12 provide that special circumstances must be present in order for an exemption from the regulations to be granted. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. As discussed above, the intent of Appendix J was that Type A, B, and C testing be performed during a refueling outage. The intent of III.A.6.(b) is to increase the frequency for a containment that exhibits leakage problems, but not to increase it so much that special shutdowns are required. To require a shutdown solely for surveillance testing would not serve the underlying purpose of the rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), that this exemption is authorized by law and will not present an undue risk to the public health and safety, and is consistent with the common defense and security. In addition, the Commission has found special circumstances in that application of the regulation in these particular circumstances would not serve the underlying purpose of the rule. Therefore, the Commission hereby grants the exemption from 10 CFR part 50, Appendix J, Sections III.A.6(b), III.D.2(a), and III.D.3 to the extent that the Appendix J test interval for performing Type A tests and Type B tests (except for air locks) and Type C tests may be extended for 190 days until March 15, 1994, on a one-time only basis, for Dresden, Unit 3, as described in Section III, above.

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of this Exemption will have no significant impact on the environment (58 FR 45923).

Dated at Rockville, Maryland this 1st day of September 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–22138 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–410]

Nine Mile Point Nuclear Station, Unit 2; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–69 issued to Niagara Mohawk Power Corporation for operation of Nine Mile Point Nuclear Station, Unit 2, located in Oswego County, New York.

The proposed amendment would revise Technical Specification Section 3/4.1.3.5, "Control Rod Scram Accumulators." Surveillance Requirement 4.1.3.5.b.2, which requires control rod drive scram accumulator testing once per 18 months and specifies test acceptance criteria, would be deleted. In addition, the required actions for inoperable control rod scram accumulators in Operational Conditions 1 and 2, contained in Actions a.1 and a.2 of Limiting Condition for Operation 3.1.3.5, would be modified. This notice supersedes the notice published on April 28, 1993 (58 FR 25858) in its entirety.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The 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 changes would eliminate leak rate testing of the scram accumulator check valves. Corresponding changes would restrict plant operation such that either adequate charging water header or reactor steam dome pressure is available to insert control rods when scram accumulators are inoperable. The proposed changes provide operating flexibility where plant safety is not an immediate concern and prevent operation in a condition where inoperable accumulators are required to support the scram function. If neither charging water header or reactor steam dome pressure is adequate to meet scram insertion times, immediate shutdown is required by placing the mode switch in the Shutdown position. When adequate reactor steam dome pressure exists to assure scram capability, a limited period of time is allowed to restore a CRD [Control Rod Drive] pump to service. To protect against loss of scram capability during rapid depressurization, control rods associated with multiple inoperable scram accumulators are inserted and disarmed. Since the changes assure control rod operability during applicable operational conditions, the probability of CRD system failure is not significantly increased. Thus, the probability of an ATWS [Anticipated Transient Without Scram] event is not significantly increased.

The proposed required actions assure that either adequate charging water pressure or adequate reactor steam dome pressure is always available to support the scram function. The ability of the CRD system to perform its function during various degraded operating conditions is assured by the proposed changes. Those circumstances where scram function is not assured require immediate shutdown. Therefore, operation of Nine Mile Point Unit 2 in accordance with this proposed amendment will 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 safety function of the scram accumulator is to assist in control rod insertion when reactor steam dome pressure alone is insufficient. Prompt operator action is still required to prevent circumstances where scram accumulators with withdrawn rods are inoperable and reactor steam dome pressure might be insufficient to scram the reactor. Thus, the capability of the control rods to perform their safety function, i.e., insert within the required time, will not be affected by the proposed changes.

The proposed additions to LCO [Limiting Condition for Operation] 3.1.3.5 action statements will assure the scram capability of all control rods while reducing the probability of forced shutdowns and the associated demands on safety systems. The additional LCO action (i.e., shutdown if reactor steam dome pressure is less than 900 psig with no operating CRD pump) provides for prompt operator action to prevent operation in a condition where inoperable accumulators might be required to support the scram function.

In addition, the proposed changes do not represent a physical change to the plant as described in the NMP2 Updated Safety Analysis Report. The proposed changes do not modify any equipment nor do they create any potential initiating events that would create any new or different kinds of accident. As such, the plant initial conditions utilized for the design basis accident analysis are still valid. Therefore, 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 previously assessed.

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.

At normal reactor steam dome pressure (i.e., greater than or equal to 900 psig), reactor steam dome pressure alone is sufficient to scram the control rods. The proposed TS (Technical Specification) changes allow the plant operator 20 minutes to restart at least one CRD pump if there is more than one inoperable scram accumulator and reactor steam dome pressure is equal to or greater than 900 psig. To protect against degradation of the scram function during a depressurization event, the proposed changes require inserting and disarming control rods associated with multiple inoperable scram accumulators. The proposed TS changes require immediate shutdown if no CRD pumps are operating, reactor steam dome pressure is less than 900 psig, and one or more inoperable scram accumulators have associated control rods withdrawn.

The control rod system is designed to bring the reactor subcritical at a rate fast enough to prevent fuel thermal parameters from exceeding their respective safety limits during plant events. The safety function of the scram accumulators is to assist in control rod insertion when the reactor steam dome pressure alone is insufficient. The proposed changes do not affect the capability of the control rods to perform their safety function and provide proper reactivity insertion within the required time. Therefore, the fuel cladding safety limit will not be affected as the MCPR [Minimum Critical Power Ratio] limit will continue to be met. The proposed changes do not affect the basis for any Technical Specification and previously established safety limits remain valid. Therefore, the operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received

within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives 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. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 12, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York. 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 party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 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) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra, Director, Project Directorate I–1: 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 Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW.,

Washington, DC 20005–3502, 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 the 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 dated April 7, 1993, as superseded September 2, 1993, which is available for public inspection at the commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Reference and Documents Department Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Md., this 3rd day of September 1993.

For the Nuclear Regulatory Commission.

John E. Menning,

Project Manager, Project Directorate I–1, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–22142 Filed 9–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443]

North Atlantic Energy Service Co., et al; Consideration of Issuance of Amendment to Facility Operating License, Proposed Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–86 issued to North Atlantic Energy Service Company (the licensee) for operation of the Seabrook Station, Unit No. 1, located in Rockingham County, New Hampshire.

The proposed amendment would revise a requirement with respect to a surveillance requirement relating to the Refueling Water Storage Tank (RWST) narrow range level transmitters. Specifically, the proposed amendment would revise Technical Specification 4.3.2.1, Table 4.3–2, Functional Unit 8.b by deleting the requirement to perform a CHANNEL CHECK at least once per 12 hours and by adding a new requirement to perform a TRIP ACTUATING DEVICE OPERATIONAL TEST (TADOT) at least once per 92 days. A note would be added to clarify that setpoint verification would not be applicable to the TADOT.

On August 25, 1993, North Atlantic representatives requested the NRC to exercise its discretion not to enforce compliance with Seabrook Technical Specification Surveillance Requirement 4.3.2.1, Table 4.3–2, Functional Unit 8.b, CHANNEL CHECK, commencing on August 25, 1993. The request for enforcement discretion was presented during a teleconference between NRC and North Atlantic representatives. The request also was submitted by letter dated August 26, 1993, along with the proposed amendment. The licensee requested expeditious review of the proposed amendment consistent with the provisions of Appendix C, Section VII.

On August 24, 1993, North Atlantic determined that the present design of the RWST narrow range level instrumentation precludes performing an adequate CHANNEL CHECK. Thereupon, North Atlantic substituted an operational check (which meets the intent of the CHANNEL CHECK) on each of the four level channels. To perform the operational check requires that the channel being tested be placed in the tripped condition. This could contribute to premature switchover of the Residual Heat Removal suction path from the RWST to the containment sump during accident conditions. The performance of the operational checks every 12 hours is undesirable because this activity has the potential to reduce the level of protection to the health and safety of the public, increases occupational exposure, and has the potential to contaminate personnel with radioactive water. Furthermore, the frequent manipulation of equipment to perform the operational checks greatly increases the potential for equipment malfunction and human error.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1) because they do not involve a change in the design or operation of the facility, nor do they affect the response of the facility to an accident. Since the proposed changes merely involve a surveillance requirement for devices which are used in the mitigation of an accident, they will not affect the operation of the equipment. Furthermore, none of the failure modes of the instruments are accident initiators, and any failure would be detected during the proposed quarterly TADOT or during calibrations. The revised surveillance requirements will continue to provide adequate assurance that the equipment will perform its specified function if called upon to do so.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the changes do not affect the manner by which the facility is operated or involve any changes to equipment or features which affect the operational characteristics of the facility.

(3) The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because they do not affect the manner by which the facility is operated or involve any changes to equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-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 15-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. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives 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. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 12, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833. 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 particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 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) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: 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 Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston, Massachusetts 02110–2624, 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 the 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 dated August 26, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, MD, this 2nd day of September 1993.

For the Nuclear Regulatory Commission.

Albert W. De Agazio,

Sr. Project Manager, Project Directorate I-4, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-22137 Filed 9-9-93; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Studies Interim Spent Fuel Storage

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's Panels on the Engineered Barrier System and Transportation & Systems will hold a workshop studying the technical challenges of interim storage of spent nuclear fuel on November 1-2, 1993, in Dallas, Texas. The workshop will focus on current Department of Energy (DOE) plans for interim storage, institutional issues relating to on- and off-site storage, the technical aspects of interim storage containers, and compatibility of the multipurpose container/multipurpose unit concept with a potential repository. A site at Yucca Mountain currently is being characterized by the DOE for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste.

This workshop, which is open to the public, will be held in the DoubleTree Park West Hotel, 1590 LBJ Freeway, Dallas, Texas 75234; telephone (214) 869-4300. For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; telephone (703) 235-4473; FAX (703) 235-4495.

Dated: September 3, 1993.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93-22173 Filed 9-9-93; 8:45 am]

BILLING CODE 6820-AM-M

Board to Study Drilling and Testing—October 19-20, 1993

Pursuant to the Nuclear Waste Technical Review Board's (the Board) authority under section 5051 of the Nuclear Waste Policy Amendments Act of 1987 (Pub. L. 100-203), the Board will hold its fall meeting October 19-20, 1993, in Las Vegas, Nevada. The meeting will focus on the surface-based dry drilling and underground testing programs being conducted at Yucca Mountain, Nevada. The Board would like to review the Department of Energy's (DOE) plans and progress toward determining site suitability using both above- and below-ground testing and evaluation. Specifically, the Board is interested in the status of the surface-based dry drilling program, including reducing core needs and increasing core production rates, and the status of the underground testing program, including plans for thermal, hydrogeologic/geochemical, and geomechanical testing. The Board has invited representatives from the DOE and its contractors, the state of Nevada, and other interested organizations to participate in the meeting. A round-table discussion will complete each day's presentations. The meeting, which is open to the public, will be held at the Plaza Suite Hotel, 4255 South Paradise Road, Las Vegas, Nevada 89109; telephone (702) 369-4400.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent nuclear fuel and defense high-level waste. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for disposal of that waste.

Transcripts of the meeting will be available on a library-loan basis from Victoria Reich, Board librarian, beginning December 1, 1993. For further information, contact Frank B. Randall, Jr., External Affairs, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473; (FAX) 703-235-4495.

Dated: September 3, 1993.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93-22155 Filed 9-9-93; 8:45 am]

BILLING CODE 6820-AM

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and to Withdraw Unlisted Privileges in an Over-the-Counter Issue

September 3, 1993.

On August 30, 1993, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7-11220 ..	MTEL	Mobile Telecommunication Technologies Corporation Common Stock, $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
711221 ...	TKOS	Tokos Medical Corp., Common Stock, $.001 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before September 24, 1993, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant

of UTP as well as the withdrawal of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Magaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–22188 Filed 9–9–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–93–41]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 4, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on September 3, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27372
Petitioner: Fly BVI
Sections of the FAR Affected:
14 CFR 61.89(a)(5)
Description of Relief Sought:
To allow Fly BVI student pilots to fly between Tortola in the British Virgin Islands and the airports of the U.S. Virgin Islands and Puerto Rico, while fulfilling the cross-country requirement for their private pilot certificate.

Docket No.: 27408
Petitioner: Chester County Aviation, Inc.
Sections of the FAR Affected:
14 CFR 141.27(c)(2)
Description of Relief Sought/Disposition:
To allow Chester County Aviation, Inc. to immediately reapply for a provisional pilot school certificate without waiting the requisite 180 days as specified in the FAR.

Docket No.: 27418
Petitioner: National Business Aircraft Association, Inc.
Sections of the FAR Affected:
14 CFR 135.299(c)
Description of Relief Sought/Disposition

To allow National Business Aircraft Association-member pilots in command (PIC) to complete PIC route and airport checks in a flight simulator rather than in an aircraft.

Dispositions of Petitions

Docket No.: 26592
Petitioner: Philadelphia Jet Service
Sections of the FAR Affected:
14 CFR 135.165
Description of Relief Sought/Disposition:
To extend Exemption No. 5341 to continue to allow Philadelphia Jet Service to operate its HS125–700A equipped with one high frequency (HF) communication system in extended over-water operations.

GRANT, August 31, 1993, Exemption No. 5341A

Docket No.: 27307
Petitioner: Comair Inc. d/b/a Delta Connection
Sections of the FAR Affected:
14 CFR 61.57(e), 121.433(c)(1)(iii), 121.440(a), 121.441(a), 121.441(b)(1) and 121 appendix F
Description of Relief Sought/Disposition:
To permit Comair to conduct a Single Visit Training Program (SVTP) for flight crew members, and eventually transition into Advanced Qualification Program (AQP) codified in Special Federal Aviation Regulation (SFAR) 58.

PARTIAL GRANT, August 31, 1993, Exemption No. 5734

[FR Doc. 93–22157 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Panama City-Bay County International Airport, Panama City, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Panama City-Bay County International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 12, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Orlando Airport District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jeff Vickers, Airport Director of the Panama City-Bay County International Airport at the following address: Panama City-Bay

County Airport and Industrial District, P.O. Box 1029, Panama City, Florida 32402.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Panama City-Bay County Airport and Industrial District under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Carlos E. Maeda, Plans and Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Panama City-Bay County International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 1, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Panama City-Bay County Airport and Industrial District was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 22, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: February 1, 1994

Proposed charge expiration date: September 30, 2007

Total estimated PFC revenue: $7,422,988

Brief description of proposed project: New Terminal, Access System and Related Facilities.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled operations by Air Taxi/Commercial Operators reported on FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT."

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Panama City-Bay County Airport and Industrial District.

Issued in Atlanta, Ga., on September 2, 1993.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 93–22162 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Bay and Saginaw Counties, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for reconstruction of M–84 between Tittabawassee Road in Saginaw County and Euclid Avenue in Bay City, Michigan.

FOR FURTHER INFORMATION CONTACT: Norman R. Stoner, Program Operations Engineer, Federal Highway Administration, 315 W. Allegan Street, room 211, Lansing, Michigan 48933, Telephone: (517) 377–1880 or Mr. Andrew J. Zeigler, Contract Administrator, Bureau of Transportation Planning, Michigan Department of Transportation, PO. Box 30050, Lansing, Michigan 48909, Telephone: (517) 373–3251.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation, (MDOT), is preparing an Environmental Impact Statement (EIS) for reconstruction of M–84, an existing state trunkline, between Tittabawassee Road in Saginaw County and Euclid Avenue in Bay City, Bay County, Michigan. The proposed project is approximately 12.9 kilometers (8 miles) in length and is needed to accommodate current and future traffic volumes, improve operating conditions and the safety of the traveling public to this two-lane section. It is also intended to improve service in this developing area in southern Bay and northern Saginaw Counties. Alternatives under consideration include (1) taking no action to improve this section of M–84 other than routine maintenance; (2) mass transit; (3) five-lane cross section; (4) divided cross section (boulevard); and (5) combination boulevard and five-lane cross section. Scoping of this project began in 1991 and included: meetings with local jurisdictions and representatives from Bay and Saginaw Counties, Bay City Metropolitan Planning Authority, and exchange of information and meetings with U.S. and State legislators representing the area. Letters and a scoping document describing the proposed action and soliciting comments will be sent to appropriate federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interests in this proposal. Although no agency scoping meeting is planned at this time, a pre-study meeting will be held in the near future to provide the public an opportunity to discuss the proposed action. A public hearing will be held. Public notice will be given of the time and place of the hearing. The Draft Environmental Impact Statement (EIS) is scheduled for completion in December, 1994, and will be made available for public and agency review and comment prior to the public hearing. The U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service are requested to be cooperating agencies on this project.

To ensure that the full range of issues relating to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 3, 1993.

James K. Erickson,

Asst. Div. Administrator, Lansing, Michigan.

[FR Doc. 93–22167 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–22–M

Federal Aviation Administration

Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Luis Munoz Marin International Airport, San Juan, Puerto Rico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Luis Munoz Marin International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 12, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Carlos Diaz Olivo, Esq., Executive Director of the Puerto Rico Ports Authority at the following address: Isla Grande Airport, GPO Box 362829, San Juan, Puerto Rico 00936–2829.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Puerto Rico Ports Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mrs. Ilia A. Quinones, Airports Plans and Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827–5397, telephone (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposed to rule and invites public comment on the application to use the revenue from a PFC at the Luis Munoz Marin International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 26, 1993, the FAA determined that the application to use the revenue from a PFC submitted by Puerto Rico Ports Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 14, 1993.

The following is a brief overview of the application.

Level of the approved PFC: $3.00

Actual charge effective date: March 1, 1993

Estimated charge expiration date: February 1, 1997

Total approved net PFC revenue: $49,768,000

Estimated PFC revenues to be used on projects in this application: $20,790,261

Brief description of proposed project: Construct Single West Crossfield Taxiway

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Puerto Rico Ports Authority, Isla Grande Airport, San Juan, Puerto Rico.

Issued in Atlanta, Ga., on September 1, 1993.

Dell T. Jernigan,

Manager, Planning and Development Branch, Airports Division, Southern Region.

[FR Doc. 93–22161 Filed 9–9–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Emmet County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for reconstruction of US–31 or relocation of a US–31 Beltway from the west city limits of Petoskey to just east of M–119 in Emmet County, Michigan.

FOR FURTHER INFORMATION CONTACT: Norman R. Stoner, Program Operations Engineer, Federal Highway Administration, 315 W. Allegan Street, room 211, Lansing, Michigan 48933, Telephone: (517) 377–1880 or Mr. Andrew J. Zeigler, Contract Administrator, Bureau of Transportation Planning, Michigan Department of Transportation, PO Box 30050, Lansing, Michigan 48909, Telephone: (517) 373–3251.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation, (MDOT), is preparing an Environmental Impact Statement (EIS) for reconstruction of US–31, an existing state trunkline, or relocation of a US–31 Beltway from the west city limits of Petoskey to just east of M–119 in Emmet County, Michigan. The proposed project is approximately 16.1 kilometers (10 miles) in length and is needed to make capacity improvements to this two-lane section to improve service in this rapidly-developing area in southern Emmet County. The limits of the study extend between Townsend Road on the west, Stump, Kemp and Click Roads on the south, Little Traverse Bay and M–119 to the north and northeast, Boyer and Valley Roads on the east. Alternatives under consideration include (1) taking no action to improve this section of US–31 other than routine maintenance; (2) mass transit; (3) four to five-lane reconstruction along existing; and (4) beltway alternatives.

Scoping of this project began in 1990 and included: Field surveys; meetings with local jurisdictions and representatives from Emmet County, City of Petoskey, and surrounding townships; formation of, numerous meetings with, the Citizens Advisory Group (CAG) with the specific purpose of providing a forum for communication from community leaders concerning the project. Two public information meetings have been held on the project. The first was held on May 10, 1992, and the second on August 20, 1992 to provide the public with an overview of the project scope and schedule , public and agency involvement process, and an opportunity to discuss the proposed action. Letters and a scoping document describing the proposed action and soliciting comments will be sent to appropriate federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interests in this proposal. A scoping meeting with federal, State, and local agencies will be held in the near future. A public hearing will be held. Public notice will be given of the time and place of the hearing. The Draft Environmental Impact Statement (EIS) is scheduled for completion in August, 1994, and will be made available for public and agency review and comment prior to the public hearing. The U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service are requested to be cooperating agencies on this project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 3, 1993.

James K. Erickson,

Asst. Div. Administrator, Lansing, Michigan.

[FR Doc. 93-22168 Filed 9-9-93; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1028

Regulation ID Number: INTL-941-86 NPRM and INTL-655-87 TEMP

Type of Review: Extension

Title: Passive Foreign Investment Companies

Description: These regulations specify how U.S. persons who are shareholders of passive foreign investment companies (PFICs) make elections with respect to their PFIC stock.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 900,000

Estimated Burden Hours Per Respondent: 3 hours

Frequency of Response: Annually and Other (one-time only)

Estimated Total Reporting Burden: 206,250 hours

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-22108 Filed 9-9-93; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0256

Form Number: IRS Forms 941c and 941cPR

Type of Review: Revision

Title: Supporting Statement to Correct Information Planilla Para La Correccion De Informacion

Description: Used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund credit for adjustment of FICA or income tax.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations

Estimated Number of Respondents/Recordkeepers: 958,050

Estimated Burden Hours Per Respondent/Recordkeeper:

	941c	941cPR
Recordkeeping	8 hrs., 51 min.	7 hrs., 25 min.
Preparing the form ...	8 min	7 min.

Frequency of Response: On occasion

Estimated Total Reporting/Recordkeeping Burden: 8,528,697 hours

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-22109 Filed 9-9-93; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1993

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Internal Revenue Service (IRS) is requesting that the Office of Management and Budget (OMB) review and approve the information collection described below by October 4, 1993. This information is needed to ensure that IRS notices are mailed to taxpayers on time. All public comments must be received by close of business September 27, 1993.

Internal Revenue Service

OMB Number: New

Form Number: None

Type of Review: New collection

Title: Focus Group Interviews to Obtain Taxpayer Input on Notices Sent to Taxpayers

Description: The group interviews are necessary to obtain taxpayer input to the changes necessary for notices mailed to taxpayers. The results will be used to determine future revisions of notices.

Respondents: Individuals or households

Estimated Number of Respondents: 900

Estimated Burden Hours Per Respondent:

Screening Questionnaire—5 minutes

Focus Group Sessions—2 hours

Travel Time To and From Facility Site—1 hour

Frequency of Response: Other (one time only)

Estimated Total Reporting Burden: 318 hours

Clearance Officer: Garrick Shear (202) 622-869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–22110 Filed 9–9–93; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

September 2, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0142
Form Number: None
Type of Review: Extension
Title: Transfer of Cargo to a Container Station
Description: The container station operator may file an application for transfer of a container station vehicle which is moved from the place of unlading or from a bonded carrier after transportation in-bond before filing of entry for the purposes of breaking bulk or redelivery.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 360
Estimated Burden Hours Per Respondent: 6 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,872 hours
Clearance Officer: Ralph Meyer, (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–22111 Filed 9–9–93; 8:45 am]

BILLING CODE 4820–02–P

Public Information Collection Requirements Submitted to OMB for Review

September 3, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0072
Form Number: Forms MHC–1 and MHC–2
Type of Review: Extension
Title: Notice of Mutual Holding Company Reorganization (MHC–1) and Minority Stock Issuance Application (MHC–2)
Description: The information collections described herein will apply to a class of companies known as "mutual holding companies" and to their subsidiaries. The collections are necessary (i) to fulfill statutory requirements; and (ii) to facilitate review of transactions presenting risks.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 17
Estimated Burden Hours Per Respondent: 379 hours, 25 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 6,450 hours
Clearance Officer: Colleen Devine (202) 906–6025, Office of Thrift Supervision, 2nd Floor, 1700 G. Street, NW., Washington, DC 20552.
OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–22165 Filed 9–9–93; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

September 3, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0061
Form Number: CF 1302
Type of Review: Extension
Title: Crew's Effects Declaration
Description: This is a list of the crew's effects that are accompanying them on the trip, which are required to be manifested, and also the statement of the master of the vessel attesting to the truthfulness of the merchandise being carried on board the vessel as crew's effect.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 9,000
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 17,168 hours
Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–22166 Filed 9–9–93; 8:45 am]

BILLING CODE 4820–02–P

General Counsel; Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Act, I hereby appoint the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, David L. Jordan, Acting Chief Counsel;

2. Dennis I. Foreman, Deputy General Counsel;

3. Richard J. Mihelcic, Associate Chief Counsel (Finance & Management);

4. John T. Lyons, Midwest Regional Counsel;

5. Agatha L. Vorsanger, North Atlantic Regional Counsel;

6. Marlene Gross, Deputy Associate Chief Counsel (Domestic Field Service);

7. Melvin E. Lefkowitz, Washington District Counsel.

This publication is required by 5 U.S.C. 4314(c)(4).

David L. Jordan,

Acting Chief Counsel.

[FR Doc. 93-22071 Filed 9-9-93; 8:45 am]

BILLING CODE 4830-01-U

Sunshine Act Meetings

Federal Register
Vol. 58, No. 174
Friday, September 10, 1993

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).

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. § 552b), notice is hereby given of the following meeting of the Board:

TIME AND DATE: 9:00 a.m., September 29, 1993.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue NW., Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Public and worker health and safety issues pertaining to operation of the Savannah River Site Replacement Tritium Facility.
2. Presentations by DOE and possibly the Board's Technical Staff relating to adequate protection of public and worker health and safety relative to the Savannah River Site Replacement Tritium Facility.

The Department of Energy will take appropriate measures to safeguard any classified or controlled nuclear information it presents at this meeting.

CONTACT PERSONS FOR MORE INFORMATION: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, or Carole J. Council, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Savannah River Site Replacement Tritium Facility currently contains a minimal inventory of tritium to perform system and equipment testing. The Board will discuss and deliberate upon public and worker health and safety issues related to increasing the tritium inventory of the Savannah River Site Replacement Tritium Facility to support the continuation and completion of testing and ultimately production operations. The meeting will include presentations by DOE and possibly the Board's Technical Staff relating to the Replacement Tritium Facility.

A transcript of the meeting will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office.

The Board reserves its right to further schedule and otherwise regulate the course of the meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Dated: September 7, 1993.

Robert M. Andersen,

General Counsel.

[FR Doc. 93–22310 Filed 9–8–93; 2:14 pm]

BILLING CODE 6820–KD–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 9, 1993, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business

1. Regulations

a. Special Collateral Requirement (Proposed)

b. Financial Disclosure and Conflict of Interest Reporting for Farmer Mac (Proposed)

c. Part 621—High Risk Asset Accounting (Final)

Closed Session*

A. New Business

1. Enforcement Actions

*Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (8) and (9)

Dated: September 7, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–22243 Filed 9–7–93; 4:30 pm]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board) concerning the Farm Credit System Building Association.

DATE AND TIME: The special meeting of the Board concerning the Farm Credit System Building Association will be held at the offices of the Farm Credit Administration in McLean, Virginia, immediately following its 10 a.m. regular meeting on September 9, 1993.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. New Business

1. Preliminary 1994 FCSBA Assessment Levels for FCS Member Banks

Closed Session*

A. New Business

1. FCSBA Personnel Issues

Dated: September 7, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–22244 Filed 9–7–93; 4:31 pm]

BILLING CODE 6705–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, September 15, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street

*Session closed—Exempt pursuant to 5 U.S.C. 552b(c)(6).

entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 7, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–22242 Filed 9–7–93; 4:29 pm]

BILLING CODE 6210–01–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–26]

TIME AND DATE: September 16, 1993 at 10 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–515 (Final) (Portable Electric Typewriters from Singapore)—briefing and vote.
5. Continuation of discussion of APO matters.
6. Outstanding action jackets.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: September 7, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–22264 Filed 9–8–93; 10:35 am]

BILLING CODE 7020–02–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: Tuesday, September 21, 1993, 1 p.m. (Closed Portion), 3:30 p.m. (Open Portion.)

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

STATUS: The first part of the meeting, from 1:00 p.m. to 3:00 p.m., will be closed to the public. The open portion will commence at 3:30 p.m. (approximately).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Budget for FY 1995.
3. Finance Project Worldwide.
4. Finance Project in Russia.
5. Finance Project in Argentina.
6. Insurance Project in Uzbekistan.
7. Insurance Project in Argentina.
8. Insurance Project in Argentina.
9. Approval of 7/13/93 Minutes (Closed Portion).

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 3:30 p.m.)

1. Approval of the 7/13/93 Minutes (Open Portion).
2. Recommendation for meeting schedule through end of March 1994.

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Corporation Secretary on (202)–336–8403.

Dated: September 6, 1993.

Anne H. Smart,

OPIC Corporate Secretary.

[FR Doc. 93–22340 Filed 9–8–93; 3:56 pm]

BILLING CODE 3210–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors' Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming meeting of the Board of Directors.

DATE: The meeting will be held Wednesday, September 22, 1993, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: September 7, 1993.

Robert E. McCally,

Acting Executive Director.

[FR Doc. 93–22302 Filed 9–8–93; 2:02 pm]

BILLING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 13, 1993.

A closed meeting will be held on Tuesday, September 14, 1993, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 14, 1993, at 10 a.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive actions.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Brian Lane at (202) 272–2400.

Dated: September 7, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–22283 Filed 9–8–93; 11:45 am]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 58, No. 174
Friday, September 10, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 171

[CGD 93-041]
RIN 2115-AD33

Domestic Passenger Vessel Damage Stability Standards

Correction

In rule document 93-20886 beginning on page 45264 in the issue of Friday, August 27, 1993, make the following corrections:

1. On page 45265, in the first column, in the first full paragraph, in the third line from the bottom, "stamp" should read "stamped"; and in the second line from the bottom, "envelope" was misspelled.

2. On the same page, in the third column, in the first full paragraph, "46 CFR 170.80" should read "46 CFR 170.080".

3. On page 45266, in the second column, in the sixth line, the signature should read "A.E. Henn".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8482]
RIN 1545-AQ90

Capitalization and Inclusion in Inventory of Certain Costs

Correction

In rule document 93-18130 beginning on page 42198 in the issue of Monday, August 9, 1993, make the following corrections:

§ 1.263A-3 [Corrected]

1. On page 42224, in the second column, in § 1.263A-3(a)(1), in the second line below the second equation, "§ 10,000,000" should read "$10,000,000".

2. On the same page, in the third column, in § 1.263A-3(a)(2)(iii)(B), in the *Example*, in the sixth line, "§ 10,000,000" should read "$10,000,000".

3. On page 42225, in the first column, in § 1.263A-3(b)(1), in the ninth line, "§ 10,000,000" should read "$10,000,000".

4. On the same page, in the second column, in § 1.263A-3(b)(2), in the first line, "*(i) In*" should read "(i) *In*".

BILLING CODE 1505-01-D

federal register

Friday
September 10, 1993

Part II

Department of Defense

Department of the Army
Corps of Engineers

33 CFR Part 334
Restricted Areas and Danger Zone, Cooper River and Tributaries, Charleston, SC; Proposed Rule

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

33 CFR Part 334

Restricted Areas and Danger Zone, Cooper River and Tributaries, Charleston, SC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Army Corps of Engineers proposes to establish a danger zone in the waters of an unnamed tributary of Foster Creek, a tributary of the Cooper River. The proposed danger zone generally borders the Charleston Naval Base and the Naval Weapons Station, Charleston and Berkeley Counties, South Carolina. The danger zone is needed to protect the public from the dangers associated with the possibility of an errant round from an existing pistol range impacting in the unnamed creek. In addition to these regulations, the Navy has received authorization from the Charleston District Engineer to erect a fence and a gate across the creek to control passage into the area. Although the area is not closed to the public on a full-time basis, the Commanding Officer, Naval Weapons Station, may close the area at any time and reopen the area when he/she determines that such restrictions may be terminated.

DATES: Written comments must be submitted on or before October 12, 1993.

ADDRESSES: HQUSACE, Attn: CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Tina Hadden at (803) 727-4330 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commanding Officer, Naval Weapons Station, Charleston, South Carolina, has requested that the Corps expand the existing restricted areas in the waters of the Cooper River and its tributaries pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (33 U.S.C. 1) and section XIX of the Army Appropriations Act of 1919 (33 U.S.C. 3). We have determined that it would be inappropriate to designate the expanded area a restricted area in view of the definitions of danger zones and restricted areas published in 33 CFR 334.2 on July 12, 1993 (58 FR 37607-37609). Accordingly, we propose to designate the area a danger zone. The danger zone will generally border the Charleston Naval Base and Naval Weapons Station. The danger zone is needed to provide a margin of safety for vessels operating in the unnamed creek which is a tributary to Foster Creek by prohibiting entry into the area when determined appropriate by the Commanding Officer of the Naval Weapons Station. An errant round from an existing pistol range near the waterway could impact into the water. Vessels shall also be prevented from entering the area by a fence and gate across the waterway. Closure of the gate and prohibited entry by these regulations shall be as required by the Commanding Officer of the Naval Weapons Station.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and accordingly, the provisions of Executive Order 12291 do not apply. These rules have been reviewed under the Regulatory Flexibility Act (Public Law 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small businesses (i.e., small businesses and small governmental jurisdictions). These regulations, if approved, may have a minimal impact on individuals fishing in the area. However, these regulations will not prohibit their entry into the area except on an intermittent basis as required for the Government's operations. The area is not known to support a commercial fishery and will not affect the food fishing industry. In addition, there will be no fees or charges imposed by the base commander for registration or entry into the area. This will not result in any increase in costs to those fishermen. Accordingly, the preparation of a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Transportation. In consideration of the above, the Corps proposes to amend part 334 of title 33 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.460 is amended by adding paragraphs (a)(12) and (b)(11) to read as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC.

(a) The areas. * * *

(12) Danger zone. That portion of Foster Creek beginning at the point of the southern shoreline of an unnamed tributary of Foster Creek at its intersection with Foster Creek at latitude 31°59′16″ N, longitude 79°57′23″; thence back proceeding along the eastern shoreline to the terminus of the tributary at latitude 32°59′49″, longitude 79°57′29″; thence back down the western shoreline of the unnamed tributary of latitude 32°59′15″, longitude 79°57′26″.

(b) The regulations. * * *

(11) The Commanding Officer of the U.S. Naval Weapons Station, Charleston, SC, may at his/her discretion, close passage to all watercraft and vessels in the danger zone described in paragraph (a)(12) until such time as he/she determines such restrictions should be terminated.

John R. Brown,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 93-22043 Filed 9-9-93; 8:45 am]

BILLING CODE 3710-92-M

federal register

Friday
September 10, 1993

Part III

Department of Defense

Department of the Army
Corps of Engineers

33 CFR Part 334
Restricted Area, North and Southwest Branch, Back River, Hampton, VA; Final Rule

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

33 CFR Part 334

Restricted Area, North and Southwest Branch, Back River, Hampton, VA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is establishing a naval restricted area in the waters of the Back River, a tributary of the Chesapeake Bay. The restricted area is located offshore of the Langley Air Force Base. The restricted area is needed to protect Government property and personnel and prevent unauthorized entry by the public into the area. All vessels are prohibited from entering the restricted area without permission from the Commanding Officer of the Langley Air Force Base.

EFFECTIVE DATE: October 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Henderson at (804) 441–7652 or Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: The Commanding Officer, Langley Air Force Base, Langley, Virginia, has requested that the Corps establish a restricted area in the waters of the Back River pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (33 U.S.C. 1) and Section XIX of the Army Appropriations Act of 1919 (33 U.S.C. 3). A notice of proposed rulemaking soliciting comments on this proposed restricted area was published in the **Federal Register** on July 14, 1993 (58 FR 37889) with the comment period expiring on August 13, 1993. No comments were received in response to the notice of proposed rulemaking and accordingly, the final rule is promulgated without change. The restricted area extends out from the shoreline of the Langley Air Force Base approximately 35 yards. The restricted area is needed to provide security for the Air Force Base by preventing entry via the waterfront to all vessels except those contracted by or utilized by the State of Virginia to work in the oyster grounds located within the restricted area and city, State and Federal law enforcement vessels. Vessels working the oyster grounds are required to notify Langley Air Force Base Security Office personnel in person or by telephone prior to entering the area and may be required to register with the base commander on an annual basis.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and accordingly, the provisions of Executive Order 12291 do not apply. These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small businesses (i.e., small businesses and small governmental jurisdictions). These regulations may have a minimal impact on individuals and/or small businesses engaged in work associated with oyster ground leases in the area. However, these regulations will not prohibit their entry into area, but will require them to contact the base commander so that any vessels entering the restricted area are identified by base security personnel. There will be no fees or charges imposed by the base commander for registration or entry into the area. This will not result in any increase in costs to those oyster planting/harvesting concerns. Accordingly, the preparation of a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps is amending part 334 of Title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add a new § 334.275 to read as follows:

§ 334.275 North and Southwest Branch, Back River, Hampton, U.S. Air Force Base, Langley, VA; restricted area.

(a) The area. Beginning at a point on the island at the entrance to Tide Mills Creek in the Southwest Branch of the Back River at latitude 37°03′50″ N, longitude 076°22′00″ W, thence along the shore of Langley Air Force Base, 35 yards off the ordinary mean high water (MHW) mark, to a point in the Northwest Branch of the Back River at latitude 37°06′40″ N, longitude 076°22′55″ W.

(b) The regulations.

(1) No persons or vessels, recreational or commercial, may enter this restricted area without the permission of the Commanding Officer, Langley Air Force Base.

(2) The Commanding Officer shall not prevent persons from fulfilling their legal obligation to the Commonwealth of Virginia with regard to oyster planting ground leases that lie within the restricted area. The Commanding Officer may, at his/her discretion, require those persons and vessels working those leases to register with the Langley Air Force Base Security Officer on an annual basis. Failure to comply with this request may result in denial to access the oyster grounds until such time as the request has been complied with.

(3) Persons or vessels contracted with or utilized by the Commonwealth of Virginia to work the oyster grounds shall give verbal notification to the base Security Office prior to entering the restricted area.

(4) City, State and Federal law enforcement vessels may enter the restricted area at any time they deem necessary for the enforcement of their respective laws.

(c) Enforcement. The regulations in this section shall be enforced by the Commanding Officer of the Langley Air Force Base and such agencies as he/she may designate.

Dated: August 30, 1993.

Stanley G. Genega,

Brigadier General (P), U.S. Army; Director of Civil Works.

[FR Doc. 93–22171 Filed 9–9–93; 4:45 pm]

BILLING CODE 3710–92–M

federal register

Friday
September 10, 1993

Part IV

Office of Management and Budget

Management of Federal Information Resources; Notice

OFFICE OF MANAGEMENT AND BUDGET

Management of Federal Information Resources

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed Revision of OMB Circular No. A–130, Transmittal 2, *Management of Federal Information Resources.*

SUMMARY: The Office of Management and Budget is revising Circular No. A–130, *Management of Federal Information Resources* (hereafter referred to as Circular A–130). Transmittal 1 to Circular A–130, effective June 25, 1993, and published on July 2, 1993 (58 FR 36068) addressed the Information Management Policy section of the Circular, as well as Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

That issuance dealt primarily with how the Federal government manages its information holdings, particularly information exchange with the public. In contrast, the revisions proposed herein address agencies' internal management practices for information systems and information technology. These practices are addressed in Section 8b and Appendix II of the Circular, which date from 1985. These proposed revisions to those parts of Circular A–130 are intended to: (1) promote agency investment in information technology that improves service delivery to the public, reduces burden on the public, and lowers the cost of Federal program administration; (2) encourage agencies to manage information technology as a strategic resource as important as financial and personnel resources; and (3) recognize the change in the technical, legal, and operational environment that agencies now face when managing their information technology.

The process of revising Circular A–130 brought to light an overlap of policy statements between Section 8a, as recently amended, and the revisions proposed herein for Section 8b. As part of the final publication of the revised Circular A–130, OMB intends to consolidate those policy statements that generally apply to both information and information technology. This consolidation will not substantively alter the policies now contained in Section 8a or proposed for Section 8b.

Finally, OMB proposes to make a few changes to Sections 6 and 7 of the Circular, which were recently amended.

DATES: Persons who wish to comment on this proposal should submit their comments no later than November 9, 1993.

ADDRESSES: Comments should be addressed to: Information Technology Management Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3221 New Executive Office Building, Washington, D.C. 20503.

ELECTRONIC AVAILABILITY AND COMMENTS: This document is available on the Internet via anonymous File Transfer Protocol (FTP) from *nis.nsf.net* as */omb/omb.a130.rev3* (do not use any capital letters in the file name). For those who do not have FTP capability, the document can also be retrieved via mail query by sending an electronic mail message to *nis-info@nis.nsf.net* with no subject, and with *send omb.a130.rev3* as the first line of the body of the message.

Comments may be sent via electronic mail to an OMB x.400 mail address, which is */s=a130/c=us/admd=telemail/prmd=gov+eop* (Internet users should add */@sprint.com* at the end of the address.) Comments sent to this address will be included as part of the official record.

For assistance using FTP, mail query, or electronic mail, please contact your system administrator.

FOR FURTHER INFORMATION CONTACT: Stephen H. Holden, Information Technology Management Branch, (202) 395–7231. Interested parties may obtain copies of the original OMB Circular A–130 (50 FR 52730) and the revisions (58 FR 36070) from the Executive Office of the President, Publications Services, by calling (202) 395–7732, between 9 am and 4 pm EST. The public can also obtain copies of referenced Circulars A–11, A–94, A–109, A–123, and A–127 from Publications Services.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act (44 U.S.C. Chapter 35) assigns the Director of the Office of Management and Budget (OMB) responsibility for maintaining a comprehensive set of information resources management policies, and for promoting the application of information technology to improve the use and dissemination of information in the operation of Federal programs.

To fulfill these responsibilities, OMB originally issued Circular No. A–130, *Management of Federal Information Resources* (50 FR 52730; December 24, 1985), which provided a policy framework for Federal information resources management (IRM). Since the Circular was issued in 1985, Congress has enacted several laws bearing on the information technology management section of the Circular, especially amendments to the Paperwork Reduction Act (Public Law 99–500).

OMB published three notices relating to this revision of the Circular. On March 4, 1991, OMB published a notice setting forth plans for revising all of the Circular (56 FR 9026) and on April 29, 1992, OMB specifically requested comments on topics for the proposed revision to the information technology management section of the Circular (57 FR 18296). On July 2, 1993, OMB published a notice (58 FR 36068) amending most of the Circular; in that notice, OMB stated its plans for amending other parts of the Circular (58 FR 36069–70).

This notice presents the revisions contemplated in these three notices and addresses the following findings:

(1) Section 8b and Appendix II of the Circular, which were issued in 1985 (50 FR 52736–37 and 41–42, December 24, 1985), do not reflect amendments to the Paperwork Reduction Act and recent advances in technology and related management techniques;

(2) Section 8b of the Circular (50 FR 52736–37) does not include benefits to the public (i.e., improved service delivery and burden reduction) as a criterion for evaluating information technology investments;

(3) Agency planning processes and documents often do not adequately address how life cycle management relates to agency-wide information technology planning, and in turn, how these elements relate to agency-wide IRM planning;

(4) Circular A–130 policies on cost recovery and charge-back for information processing resource sharing, contained in Appendix II, do not reflect the changes in the technical environment that allow for broader categories of resource sharing;

(5) Circular A–130 does not incorporate or reference several OMB policy documents governing the management of agency information resources;

(6) Some agencies have not adopted the major principles of Circular A–130 in their internal policies, and often have not established procedures for overseeing the management of major information systems; and

(7) Agencies do not consistently link investments in information technology to the achievement of agency missions, or to the management of other agency resources. Information systems management and project oversight is

generally ineffective when agencies do not integrate these processes with agency decision making on strategic planning, budget formulation, human resource management, and acquisition approval.

Accordingly, OMB's goals for the second phase of the revisions of OMB Circular No. A–130 are to:

(1) Update the policies contained in the Circular to reflect changes in the technical and legal environment shaping the management of information resources in the Federal government;

(2) Broaden the criteria for evaluating proposed investments in information resources to include improving program delivery to the public, reducing information collection burden, and increasing the efficiency of Federal program administration;

(3) Introduce an IRM planning framework with special attention to relating IRM planning to agency-wide strategic planning, and strengthening the ties among IRM and other agency management processes such as human resources management, financial management and budgeting, and acquisition and contract management;

(4) Revise substantially the operational guidance contained in Appendix II (issued in 1985, at 50 FR 52741–42), which covers cost recovery and information resource sharing, and incorporate this revised policy in Section 8b of the Circular (Appendix II is proposed to be deleted, and the revised guidance is in proposed Section 8b);

(5) Harmonize definitions, policy principles, and system review requirements provided by policy documents such as OMB Circular No. A–123, *Internal Control Systems;* OMB Circular No. A–127, *Financial Management Systems;* OMB Circular No. A–109, *Acquisition of Major Systems;* OMB Circular No. A–11, *Preparation and Submission of Budget Estimates;* and OMB Circular No. A–94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs;*

(6) Encourage agencies to implement the policies and guidance of Circular A–130 through policies and procedures of their own, including review mechanisms to oversee major information systems; and

(7) Provide more comprehensive guidance for agencies on life cycle management, including evaluation of proposed information technology investments, technological uncertainty, and the stability of user requirements.

Request for Public Comments

OMB consulted with Federal agencies and other organizations while drafting these proposed revisions. The purpose of these discussions was to help ensure that the revisions address the real issues facing Federal agencies using information technology. That is also OMB's purpose in requesting public comment. Therefore, while comments on all issues pertaining to the proposed revisions are requested and will be considered, OMB asks readers to focus on three particular questions when providing comments.

First, are the problem statements listed above accurate? These statements reflect OMB's analyses of agency management policies and practices for information technology over the last several years. Since these problem statements drive the content of the proposed revisions, it would be helpful to know if readers believe OMB has accurately described the principal areas of Federal agency information technology management that require improvement.

Second, do the proposed revisions adequately address those problems? In particular, understanding that agencies use Circular A–130 to shape internal policies, do the proposed revisions adequately explain OMB's expectations for managing information technology so that agencies can update their policies and improve their practices accordingly?

Finally, are these proposed revisions flexible and forward-looking enough to accommodate emerging trends in technology? While the proposed revisions to the Circular are written to be technology-neutral, will the policies be difficult to interpret or to apply due to changes in information technology five years from now? In particular, does the Circular adequately address the increasingly common practice of distributing and decentralizing information resources throughout organizations?

Structure of this Proposed Revision

This proposed revision substantially reorganizes Section 8b, Information Systems and Information Technology Management, which was issued in 1985 (50 FR 52741–42, December 24, 1985). This proposed revision supplements Transmittal 1 of Circular A–130, which revised Section 8a and other related sections dealing with information management (58 FR 36070, July 2, 1993). The revisions proposed herein primarily address portions of the Circular that were not addressed in the July 1993 **Federal Register** notice (i.e., Section 8b and Appendix II). However, revisions are also proposed for Section 6, Definitions, Section 7, Basic Considerations and Assumptions, and Appendix IV, which were addressed in the July 1993 notice.

Outline of Circular A–130 [Reflecting revisions proposed by this notice]:

1. *Purpose:* [Unchanged; see 58 FR 36070]
2. *Rescissions:* [Unchanged; see 58 FR 36070]
3. *Authorities:* [Unchanged; see 58 FR 36070]
4. *Applicability and Scope:* [Unchanged; see 58 FR 36070]
5. *Background:* [Unchanged; see 58 FR 36070]
6. *Definitions:* [Changes proposed; see 58 FR 36070–71]
7. *Basic Considerations and Assumptions:* [Changes proposed; see 58 FR 36071]
8. *Policies:*
   a. *Information Management Policy:* [Unchanged; see 58 FR 36071–73]
   b. *Information Systems and Information Technology Management:* [Changes proposed; see 50 FR 52736–37]
9. *Assignment of Responsibilities:* [Unchanged; see 58 FR 36073–74]
10. *Oversight:* [Unchanged; see 58 FR 36074]
11. *Effectiveness:* [Unchanged; see 58 FR 36074]
12. *Inquiries:* [Unchanged; see 58 FR 36074]
13. *Sunset Review Date:* [Unchanged; see 58 FR 36075]

Appendix I: *Federal Agency Responsibilities for Maintaining Records about Individuals* [Unchanged; see 58 FR 36075–79]

Appendix II: *Cost Accounting, Cost Recovery, and Interagency Sharing of Information Technology Facilities* [Deletion proposed; see 50 FR 52741–42]

Appendix III: *Security of Federal Automated Information Systems* [Unchanged; see 50 FR 52742–44]

Appendix IV: *Analysis of Key Sections* [Changes proposed; see 58 FR 36080 (Section 6) and 50 FR 52748–50 (Section 8b)]

Summary of Proposed Revisions

1. Section 6. *Definitions.*

"Information resources". OMB proposes to include a definition for the term "information resources," which is implied in Circular A–130's current definition of "information resources management" (Sec. 6i, 58 FR 36070). The purpose is to more clearly delineate those management techniques that apply to both information and information technology.

"Information management". OMB proposes to include a definition for the term "information management" to distinguish the management of information from the management of information technology where necessary.

"Major information systems". OMB proposes minor editorial changes to the existing definition of the term "major information systems" (Sec. 6m, 58 FR 36071) changing "impact on" to "role in" to better reflect the purpose of information systems.

"Information technology facility" and *"Information processing services organization"*. OMB proposes to replace the existing term "information technology facility" (Sec. 6l, 58 FR 36071) with the new term "information processing services organization" (IPSO). OMB believes the term "information technology facility" limited the application of policy formerly contained in Appendix II (50 FR 52741–42) to mainframe computing centers. Today, with the use of decentralized, distributed, and cooperative architectures, information processing services extend to the end user's desk over local-area and wide-area networks. To recognize these changes in the computing environment, OMB proposes using the term "IPSO", expanding coverage of the policy formerly in Appendix II, and discussing the proposed policy in Section 8b rather than in an appendix.

"Full cost" and *"User"*. OMB proposes to move these terms formerly contained in Appendix II (50 FR 52741–42) into Section 6 consistent with the proposal to incorporate the Appendix II guidance into Section 8b(5). Although these definitions are shortened for ease of reading, as discussed in Appendix IV, they retain the same meaning.

"Information systems life cycle". OMB proposes to move this term formerly contained in Appendix IV (50 FR 52749) into Section 6 consistent with the proposed discussion of information systems life cycle in Section 8b(3).

2. Section 7. *Basic Considerations and Assumptions.*

OMB proposes to add three new statements to this section that address:

(1) The need for agencies to apply information resources to meet the mission needs of the agency as agreed upon through agency strategic planning processes,

(2) The need for agencies to examine the ultimate impact information resources can have on Federal agency operations through work process redesign, and

(3) The need for training to encourage informed use of information resources, inside and outside the Federal government.

3. Section 8b. *Information Systems and Information Technology Management Policy.*

(1) *Evaluation and Performance Measurement.*

OMB proposes to expand on the guidance for evaluating investments in information technology currently found in Section 43 of OMB Circular No. A–11, *Preparation and Submission of Budget Estimates*, and OMB Circular No. A–94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* (57 FR 53519, November 10, 1992). Additionally, OMB proposes to broaden the criteria for evaluating information systems to include benefits to the public. The proposed new policy requires agencies to prepare such analyses using systematic performance measurement of agency outputs whenever possible.

(2) *Strategic Information Resources Management (IRM) Planning.*

OMB proposes to address the shortcomings of the current planning policy by proposing a planning framework that links project level life cycle management to agency-wide strategic IRM planning. In addition, OMB proposes to expand the scope of the current planning requirement beyond automatic data processing equipment to planning for all information resources. As in the past, OMB policy does not explicitly prescribe the format of the plans because the uniqueness of mission and culture dictates that agencies perform and document their planning in formats that make sense for their organizations. OMB proposes to add new policy at 8b(2)(c) that prompts agencies to address the need for organization-wide architectures for providing information resources services.

(3) *Information Systems Management Oversight.*

OMB does not presently articulate a life cycle management policy for information systems in one document. Proposed Section 8b(3) addresses the management of information systems throughout their life cycle, recognizing that all information systems, from an off-the-shelf personal computer utility to a large integrated nationwide application, have a life cycle.

OMB proposes to add a new policy, Section 8b(3)(g), that explicitly links the oversight of financial management systems through Circular No. A–127, *Financial Management Systems* (58 FR 41014–19, July 23, 1993), to the management of information systems more generally. Circular A–127 sets forth additional requirements for financial management systems.

(4) *Use of Information Systems and Acquisition of Information Technology.*

The proposed revisions in Section 8b(4) recognize a change in the mix of agency acquisitions for information technology goods and services in recent years. Policies pertaining to acquisition use the term "information technology" as defined in the Circular (Sec. 6k, 58 FR 36071). The use of the term "information technology," which includes equipment, software, services, and telecommunications, recognizes the growing trend in the public and private sectors to "outsource" a variety of information technology activities. Increasingly, agencies acquire a "solution" from the private sector instead of just the hardware. Policies pertaining the use of information technology use the term "information systems" which includes automated and manual information processing processes.

OMB proposes to apply the economic principle of maximizing return on investment when acquiring information technology. This supports the criterion used in 8b(1) to evaluate investments in information technology for improvements in service delivery to the public.

OMB also proposes to drop the policy statement on the use of Federal Information Processing Standards (FIPS) from Section 8b of the Circular (Sec. 8b(14), 50 FR 52737) because it is now covered in Section 8a(1)(h) of Transmittal 1 of Circular A–130 (58 FR 36072). This proposed change recognizes that the Computer Security Act of 1987 amended the Brooks Act to give the Secretary of Commerce the responsibility for determining the applicability of FIPS (see 40 U.S.C. 759(d)).

(5) *Information Processing Service Organizations (IPSO).*

OMB proposes incorporating guidance formerly found in Appendix II in its entirety (50 FR 52741–42) into Section 8b(5). This reflects changes in the technical environment surrounding the sharing of federal information processing services that allow for sharing of more than just mainframe computing resources. Moving this guidance into the policy section of the Circular gives it more prominence and better integrates these principles in agencies' information technology management programs.

Policy statements in Section 8a and Section 8b that apply to both information and information technology will be consolidated in the final publication of the revised OMB Circular

A–130. This includes such areas as planning for information resources throughout their life cycle, training users of information resources, sharing information resources within and between agencies, reducing the burdens imposed upon the public, and accommodations for persons with disabilities. Comments are invited to suggest additional areas where consolidation could eliminate overlap.

4. Appendix II: *Cost Accounting, Cost Recovery, and Interagency Sharing of Information Technology Facilities.*

In the July, 1993 **Federal Register** notice (58 FR 36069–70), OMB stated its intention to revise the guidance in Appendix II, issued in 1985 (50 FR 52741–42). This notice contains the revised guidance, but it is proposed for inclusion in Section 8b. Accordingly, it is proposed that Appendix II be deleted.

5. Appendix IV: *Analysis of Key Sections.*

The following additions are proposed to Appendix IV of 50 FR 52744–50 as modified by 58 FR 36079–86:

OMB proposes to completely revise the portion of this appendix pertaining to Section 8b, Information Systems and Information Technology Management (see 50 FR 52748–50) to address the changes proposed for Section 8b.

OMB also proposes to correct a typographical error in the July, 1993 **Federal Register** notice. The application of Circular A–25 is clarified by Section 8a(7)(c), not Section 8a(8)(c) as stated in the July, 1993 notice (58 FR 36084).

Development of Future Topics

Appendix III: *Security of Federal Automated Information Systems.*

OMB did not amend Appendix III (50 FR 52742–44) in the July 1993 **Federal Register** notice, and is not proposing to amend Appendix III in this notice. OMB intends to issue a proposal that would revise Appendix III to incorporate requirements of the Computer Security Act of 1987 including requirements for security plans described in OMB Bulletin 90–08. Those revisions will incorporate changes based on the experience gained in recent computer security visits to agencies by teams of staff from OMB, the National Institute of Standards and Technology (NIST), and the National Security Agency. OMB will also work with NIST to implement recommendations of the Computer Security and Privacy Advisory Board (established by the Computer Security Act) regarding better coordination between this Circular and OMB Circular No. A–123.

Accordingly, OMB proposes to revise Circular A–130 as set forth below.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

Proposed Revisions to Circular No. A–130, Transmittal 1

Section 6. *Definitions* [58 FR 36070–71] [Definitions j, k, and m are not proposed revisions but set forth for ease of reference.]

* * * *

j. The term "information system" means the organized collection, processing, maintenance, transmission, and dissemination of information in accordance with defined procedures, whether automated or manual.

k. The term "information technology" means the hardware and software operated by a Federal agency or by a contractor of a Federal agency or other organization that processes information on behalf of the Federal Government to accomplish a Federal function, regardless of the technology involved, whether computers, telecommunications, or others. It includes automatic data processing equipment as that term is defined in Section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)). For the purposes of this Circular, automatic data processing and telecommunications activities related to certain critical national security missions, as defined in 44 U.S.C. 3502(2) and 10 U.S.C. 2315, are excluded.

l. The term "information processing services organization" (IPSO) means a discrete set of personnel, information technology, and support equipment with the primary function of providing services to one or more users.

m. The term "major information system" means an information system that requires continuing management attention because of its importance to an agency mission; its high development, operating or maintenance costs; or its significant role in the administration of agency programs, finances, property, or other resources.

* * * *

p. The term "information management" means the planning, budgeting, manipulating, and controlling of information throughout its life cycle.

q. The term "information resources" includes both government information and information technology.

r. The term "information systems life cycle" means the phases through which information systems pass, typically characterized as initiation, development, operation, and termination.

s. The term "full costs" means expenses incurred in the operation of an information processing service organization, including those for direct, indirect, general, and administrative expenses.

t. The term "user" means an organizational or programmatic entity that receives information processing services from an information processing services organization (IPSO). A user may be either internal or external to the organization responsible for providing information resources services, but normally does not report either to the manager or director of the IPSO or to the same immediate supervisor.

Final publication of the revised Circular A–130 will include reordering the definitions to restore the terms to alphabetical order.

Section 7: *Basic Considerations and Assumptions* [58 FR 36071]

* * * *

i. Agency strategic planning can improve the operation of government programs. The application of information resources should support an agency's strategic plan to fulfill its mission. The integration of IRM planning with agency strategic planning promotes the appropriate application of Federal information resources.

* * * *

l. Information technology is not an end in itself. It is one set of resources that can improve the effectiveness and efficiency of Federal program delivery. The application of up-to-date information technology presents opportunities to improve the management of government programs through work process redesign and thereby provide better service delivery to the public. The availability of government information in diverse media, including electronic formats, permits greater flexibility in using the information.

* * * *

n. Users of Federal information resources must have knowledge and training to effectively use these information resources.

Section 8. *Policy* [50 FR 52736–37; see also 58 FR 36071–73]

* * * *

b. *Information Systems and Information Technology Management.*

(1) *Evaluation and Performance Measurement.* Agencies shall promote the appropriate application of Federal information resources as follows:

(a) Seek opportunities to improve the effectiveness of government programs through the judicious application of

information technology in conjunction with work process redesign;

(b) Prepare, and update as necessary throughout the information systems life cycle, benefit-cost analyses for all information systems at a level of detail appropriate to the size of the investment using the methodology described in OMB Circular No. A–94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs;*

(c) In conducting benefit-cost analyses to support ongoing management oversight, agencies should seek to maximize return on investment over the information system life cycle by establishing and evaluating systematic performance measures, which should include the:

(1) effectiveness of program delivery,

(2) efficiency of program administration, and

(3) reduction in burden, including information collection burden, imposed on the public.

(2) Strategic Information Resources Management (IRM) Planning. Agencies shall maintain strategic information resources management planning processes which include the following components:

(a) Strategic IRM planning that links information resources management with agency strategic planning. Strategic IRM planning shall address how the management of information resources promotes the fulfillment of an agency's mission. This planning process should result in the preparation of a plan when the agency faces fundamental change in its mission, policy direction, or resource levels.

(b) Information planning that promotes the use of information throughout its life cycle to maximize the usefulness of information, minimize the burden on the public, and preserve integrity, availability, and, as needed, confidentiality of information. It shall specifically address the planning and budgeting for the information collection burden imposed on the public as defined by 5 C.F.R. 1320;

(c) Operational information technology planning that links information technology to anticipated program and mission needs, reflects budget constraints, and forms the basis for budget requests. This planning should articulate a desired "target architecture" that ultimately creates an open systems environment. Operational information technology planning should also include technical strategies to move towards the chosen target architecture. This planning should result in an annually updated five-year plan, as required by 44 U.S.C. 3506, which includes a summary of computer system security planning, as required by Section 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note); and

(d) Coordination with other agency resource planning processes including human, financial, and other resources.

(3) *Information Systems Management Oversight.* Agencies shall establish information system life cycle management oversight mechanisms that:

(a) Document the mission and technical requirements that each information system is intended to meet;

(b) Provide for periodic review of those requirements to determine:

(1) how those requirements might have changed,

(2) whether the system continues to fulfill ongoing and anticipated requirements, and

(3) what the appropriate level of maintenance is to ensure the system operates cost effectively;

(c) Ensure that the official who administers a program supported by an information system is responsible and accountable for the management of that information system throughout its life cycle;

(d) Provide for the appropriate training for users of Federal information resources;

(e) Prescribe Federal information system requirements that do not unduly restrict the prerogatives of State and local governments;

(f) Establish and maintain oversight and management mechanisms to ensure that major information systems proceed in a timely fashion, meet user requirements, and deliver intended benefits to the agency and affected publics through coordinated decision making about the information, human, financial, and other resources supporting these major information systems; and

(g) Ensure that financial management systems conform to the requirements of OMB Circular No. A–127, *Financial Management Systems.*

(4) *Use of Information Systems and Acquisition of Information Technology.* Agencies shall:

(a) Ensure that existing and planned information systems do not unnecessarily duplicate information systems available from other agencies or from the private sector;

(b) Share available information systems with other agencies to the extent practicable and legally permissible;

(c) Meet information technology needs through intra-agency and interagency sharing, when it is cost effective, before acquiring new information technology resources;

(d) Acquire information technology in a manner that makes use of full and open competition and that maximizes return on investment;

(e) Acquire off-the-shelf software from commercial sources, unless the cost effectiveness of developing custom software to meet mission needs is clear and has been documented;

(f) Acquire information technology or develop information systems in a manner that facilitates necessary interoperability, application portability, and scalability of computerized applications across networks of heterogeneous hardware, software, and communications platforms;

(g) Acquire information technology in accordance with OMB Circular No. A–109, *Acquisition of Major Systems,* where appropriate; and

(h) Ensure that planned acquisitions of information technology consider the needs for accommodations of accessibility for individuals with disabilities to the extent that needs for such access exist.

(5) *Information Processing Service Organizations (IPSO).* Agencies shall account for the full costs of operating information processing services organizations. When the obligations for such organizations exceed $3 million annually, agencies shall:

(a) Implement a system to distribute and recover the obligations incurred for providing services to all users that:

(1) Prices each service provided by the IPSO to each user on an equitable basis commensurate with the resources required to provide that service and the priority of service provided. Agencies may estimate the price of individual transactions provided that these estimates are periodically reconciled to assure that the full costs of operations are equitably distributed among all users;

(2) Directly distributes the full costs of dedicated services to users;

(3) Provides for the periodic submission of statements to all users, itemizing the costs of services provided; and

(4) Provides for the preparation of a report that documents the past year's obligations for operating the IPSO at the close of each fiscal year.

(b) Document IPSO agreements to identify:

(1) Services to be provided and responsibilities of the IPSO and users;

(2) Service priorities and terms (e.g., quality performance standards) for each user;

(3) Prices to be charged for providing services;

(4) Reimbursement arrangements for services provided; and

(5) Conditions for terminating such agreements by either party.

(c) Provide standard terms and conditions to users obtaining similar services insofar as possible.

(d) Cite such IPSO agreements in justifications to OMB for resource requests (see OMB Circular No. A–11, *Preparation and Submission of Budget Estimates*) and allocations:

(1) Federal users shall include resource requests for the amount of planned IPSO use in their budget and request justifications to OMB and Congress; and

(2) IPSOs shall assure that planned reimbursements from users reduce requests for appropriated funds by that amount; and

(e) Establish a users group to advise the IPSO regularly on such issues as those specified under the IPSO agreements required in subsection (b) above.

Appendix II: *Cost Accounting, Cost Recovery, and Interagency Sharing of Information Technology Facilities* [50 FR 52741–42]

Appendix II is proposed for deletion.

Appendix IV: *Analysis of Key Sections* [58 FR 36079–85; 50 FR 52748–50]

At this point, the text of Appendix IV consists of revisions issued in July 1993 [58 FR 36079–86] and the discussion of Sections 8b, 9 and 10 of the 1985 issuance [50 FR 52748–51]. The following additions and revisions are proposed to Appendix IV of 50 FR 52744–51 as modified by 58 FR 36079–86:

6. *Definitions.*

OMB acknowledges that its use of the term "major information system" and variations on the term in other Circulars is a source of confusion to agencies. However, the variations contained in other OMB Circulars serve different purposes. OMB Circular No. A–109, *Acquisition of Major Systems,* presents a definition for the term "major systems" for acquisitions that includes more than information resources [41 FR 14825, April 7, 1976]. OMB Circular No. A–11, *Preparation and Submission of Budget Estimates,* defines the term "information technology initiatives" for purposes of providing benefit-cost analyses to OMB as budget justification materials where an initiative creates or modifies an information system and therefore requires an investment above normal operating costs. The definition of "major information systems" presented in this Circular drives the applicability of the policy for management control of information systems stated in Section 8b(3)(f), as discussed further below.

The definition of the term "full costs" includes all direct, indirect, general, and administrative obligations incurred in the operation of an IPSO. These include: personnel, equipment, software, supplies, contracted services from private sector providers, space occupancy, intra-agency services from within the agency, and interagency services from other Federal agencies, and other services that are provided by State and local governments, and Judicial and Legislative branch organizations, and that are paid by the IPSO.

Section 8b. *Information Systems and Information Technology Management Policy.*

(1) *Evaluation and Performance Measurement.* OMB encourages agencies to stress several types of evaluation in their oversight of information systems life cycle management. As a first step, agencies must assess the continuing need for the function. If the agency determines there is a continuing need for a function, agencies should reevaluate existing work processes prior to creating new or updating existing information systems. Agencies often design work processes to maximize efficiency in traditional paper-based processing that may no longer make sense in an automated environment. The application of information technology presents an opportunity to reevaluate existing organizational structures and work processes to see whether they are still effective in achieving the organization's mission.

In conjunction with work process redesign, agencies should conduct evaluations that ensure: (a) alignment of the planned information system with agency strategic planning, (b) acceptability of information system implementation to users inside the Government, (c) accessibility to clientele outside the Government, and (d) realization of projected benefits. Agencies should also conduct benefit-cost analysis, which is a vital management tool for linking function and budget. Whenever possible in preparing benefit-cost analyses to support investments in information technology, agencies should quantify the performance of the information system in providing services to the public through systematic measurement of outputs.

While it is not necessary to create a new benefit-cost analysis at each stage of the information systems life cycle, it is useful to refresh these analyses with up-to-date information to ensure the continued viability of an information system prior to and during implementation. Reasons for updating a benefit-cost analysis may include such factors as significant changes in projected costs and benefits, major changes in requirements (including legislative or regulatory changes), or empirical data based on performance measurement gained through prototype or pilot experience.

(2) *Strategic Information Resources Management (IRM) Planning.* Linking IRM planning to agency strategic planning ensures that agencies apply information resources to programs that support the achievement of agreed-upon mission goals. Additionally, the agencies may avoid automating out-of-date, ineffective, or inefficient procedures and work processes.

Agency planning efforts should establish agency-wide information and information technology architectures. Such architectures should provide a technical framework for updates to existing and new information systems. Agencies should integrate proposed information systems projects into the architecture in a manner that will ensure progress towards achieving an open systems environment. Agency strategic IRM planning should describe the parameters (e.g., technical standards) of such an architecture and operational planning should describe how the agency intends to put the technology in place to build such an architecture.

Agencies should also devote management attention to more immediate issues of information resources management planning. This operational level of planning, providing a one to five year focus to agency IRM activities and projects, should address agency strategies to move toward an open systems environment. These strategies should consist of one or multiple profiles (an internally consistent subset of standards), based on the current version of the Application Portability Profile, which address issues such as satisfying functional user requirements, accommodation of standards, interoperability, application portability, and scalability by defining interfaces, services, protocols, and data formats in terms of nonproprietary specifications.

Agency operational planning should also communicate to the public how the agency's application of information resources might affect them. For the contractor community, this includes articulating the agency's intent to acquire information resources from the private sector. OMB encourages agencies to use Section 43 of OMB Circular No. A–11 to serve this purpose. These data are not acquisition sensitive, and therefore should be distributed as widely as possible to the vendor

community in order to promote competition.

This operational planning should also include initiatives to reduce the burden, including information collection burden, an agency imposes on the public. Too often, for example, agencies require personal visits to government offices during office hours inconvenient to the public. Consequently, agencies should plan to use information technology in ways that make the public's dealing with the Federal government as "user-friendly" as possible. In particular, agencies should focus on how to better utilize the data they currently collect from the public. Because agencies have not shared their respective information inventories, the public often must respond to duplicative information collections from various agencies or their components. Any such sharing of information about individuals should be consistent with the Privacy Act of 1974, as amended, and Appendix I of this Circular.

(3) *Information Systems Management Oversight.* While each phase of a life cycle may have unique characteristics, the dividing line between the phases may not always be distinct. For instance, both planning and evaluation should continue throughout the life cycle. In fact, during any phase, it may be necessary to revisit the previous stages based on new learning or changes in the environment in which the system is being developed. OMB is currently working with GSA to provide agencies with technical assistance to explain how agencies may apply this life cycle management philosophy.

This policy describes a life cycle. It does not, however, make a definitive statement that there must be four versus five phases of a life cycle because the life cycle varies by the nature of the information system. Only two phases are common to all information systems—a beginning and a end. As a result, life cycle management techniques that agencies can use may vary depending on the complexity and risk inherent in the project.

Agencies should consider the definition of what constitutes a "major information system" for purposes of this Circular when determining the appropriate level of oversight for an information system. The anticipated dollar size of an information system or a supporting acquisition is only one of the determinants of the level of management attention an information system requires. Additional issues to consider include the maturity and stability of the technology under consideration, how well defined the users' requirements are, the level of stability of program and user requirements, and security considerations.

For instance, certain risky or "cutting-edge" information systems require closer scrutiny and more points of review and evaluation. This is particularly true when an agency uses an evolutionary life cycle strategy that requires a technical and financial evaluation of the project's viability at prototype and pilot testing phases. Projects relying on commercial off-the-shelf technology and applications will generally require less oversight than those using custom-designed software.

One of the elements of this life cycle management philosophy is the recognition of imbedded and/or parallel life cycles. Within an information system's life cycle there may be other subsidiary life cycles. For instance, most Federal information systems projects include an acquisition of goods and services that have life cycle characteristics. Some projects include software development components, which also have life cycles. At the same time, information systems project managers must coordinate with the budget and human resource management cycles that exist in the agency.

The distinction between information system life cycles and acquisition life cycles is important when considering the implications of Circular A–109 to the acquisition of information resources. Circular A–109 pertains to acquisition of major systems and its applicability to the acquisition of information resources is discussed in more detail in the next section.

Section 8b(2) of the Circular underscores the need for agencies to bring an agency-wide perspective to a number of information resources management issues. These issues include policy formulation, planning, architecture creation and support, and project life cycle management. Agencies should also provide for coordinated decision making (Section 8b(3)(f)) in order to bring together the perspectives from across an agency, and outside if appropriate. Interested groups typically include functional users, managers of financial and human resources, information resources management specialists, and, as appropriate, affected publics.

(4) *Use of Information Systems and Acquisition of Information Technology.* Outsourcing, or relying on the private sector to provide a service instead of a set of goods, may include such activities as telecommunications services, computer center operations, architectural design, software development, or other analytical support of agency information resources management activities.

Consistent with the requirements of both the Brooks Act and the Paperwork Reduction Act, agencies should acquire information resources to serve a number of purposes that include improving service delivery, reducing the cost of Federal program administration, and minimizing burden of dealing with the Federal government. Any evaluation of acquisition of information resources must assess both the benefits and costs of applying technology. Focussing on only the cost of the technology addresses only half of the issue.

Circular A–130 recognizes that agencies may wish to ask potential offerors to propose different technical solutions and approaches to fulfilling agency requirements.

Agencies should apply Circular A–109 acquisition strategies for information resources when:

(1) The agency intends to fund operational tests and demonstrations of system design;

(2) The risk is high due to the unproven integration of custom designed software and/or hardware components;

(3) The estimated cost savings or operational improvements from such a demonstration will further improve the return on investment; or

(4) The agency wants to acquire a solution based on state-of-the-art, unproven technology.

Agencies should ensure that acquisitions for new information resources services comply with GSA regulations concerning information technology accessibility for individuals with disabilities [41 C.F.R. 201–20.103–7].

(5) *Information Processing Service Organizations (IPSO).* This section incorporates guidance once found in Appendix II to better reflect the relationship of cost accounting, cost recovery, and sharing to the overall policy in the Circular. This policy guidance uses the terms "sharing" and "cross servicing" interchangeably rather than trying to continue the distinction of the past. The term "sharing" had been interpreted as furnishing excess information processing capacity to users where the primary service provided was data processing and any other support services were incidental. The term "cross servicing" included a broader scope of technical assistance services and might include software development for instance.

The policy retains the principle that bringing market forces to bear on the consumption of information processing

services, through reimbursable agreements that specify service and quality levels, improves the management of those resources. Implicit in this policy is an assumption that users should retain the ability to acquire services from a variety of service providers, inside and outside the Federal government, so that market forces can be brought to bear on the provision of these services.

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Part V

Department of Education

Library Education and Human Resource Development Program; Inviting Applications for New Awards for Fiscal Year 1994; Notice

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.036 A & B]

Library Education and Human Resource Development Program; Inviting Applications for New Awards for Fiscal Year (FY) 1994

Purpose of Program: The purpose of the Library Education and Human Resource Development Program is to promote high quality library and information science education. The program provides grants to institutions of higher education and library organizations or agencies to recruit, educate, and train persons, and to establish, develop, or expand programs, through courses of study or staff development (including institutes), fellowships, or traineeships in library and information science.

This program furthers all of the National Education Goals. In particular, it supports Goal Five, which calls for every adult American to be literate and to possess the knowledge and skills necessary to compete in a global economy.

Eligible Applicants: Eligible applicants are institutions of higher education, library organizations, and library agencies.

Deadline for Transmittal of Applications: November 30, 1993.

Deadline for Intergovernmental Review: January 31, 1994.

Applications Available: September 29, 1993.

Available Funds: For fellowship grants: $3.5 million (master's and doctoral only). For institute grants: $1.5 million.

Estimated Range of Awards: For fellowship grants: $22,000—$332,000. For institute grants: $35,000—$125,000.

Estimated Average Size of Awards: For fellowship grants: $78,000. For institute grants: $66,000.

Estimated Number of Awards: For fellowship grants: 45. For institute grants: 23.

Note: The Department is not bound by any estimate in this notice.

Project Periods: For fellowship grants: A new fellowship grant at the master's level must be at least one academic year; a new fellowship at the doctoral level must be at least one academic year and may be planned for up to two additional annual budget periods to be awarded on a noncompetitive continuation basis.

For institute grants: A long-term institute project must provide at least one academic year but no more than 12 months of training; a short-term institute project must provide at least one week but no more than six weeks of training.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program as published in the **Federal Register** on August 26, 1993 (58 FR 45210).

Priorities

CFDA No. 84.036B—Fellowship Projects

Absolute Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 776.5 the Secretary gives an absolute preference to applications for fellowships that meet one or more of the following priorities. The Secretary funds under this competition only applications for fellowships that meet one or more of the following priorities:

Absolute Priority 1—To recruit, educate, train, retrain and retain minorities in library and information science.

Absolute Priority 2—To educate, train or retrain library personnel in areas of library specialization where there are currently shortages, such as school media, children's services, young adult services, science reference, and cataloging.

Absolute Priority 3—To increase excellence in library education by encouraging study in library and information science and related fields at the doctoral level.

Invitational Priority: Within absolute priority 3 specified in this notice under fellowship projects, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Applications for fellowships that place particular emphases on the study of library planning, evaluation, and research.

CFDA No. 84-036A—Institute Projects

Absolute Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 776.5(a) the Secretary gives an absolute preference to applications that meet one or more of the following priorities. The Secretary funds under this competition only applications that meet one or more of these absolute priorities:

Absolute Priority 1—To recruit, educate, train, retrain and retain minorities in library and information sciences.

Absolute Priority 2—To educate, train or retrain library personnel in areas of library specialization where there are currently shortages, such as school media, children's services, young adult services, science reference, and cataloging.

Absolute Priority 3—To train or retrain library personnel to serve the information needs of the elderly, the illiterate, the disadvantaged, or residents of rural America.

Invitational Priority: Within absolute priorities 2 and 3 specified in this notice under institute projects, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Applications for institutes that place particular emphasis on libraries and their contributions to achieving one or more of the following National Education Goals (1, 2, 3, 4, and 5):

Goal 1—Readiness for School: By the year 2000, all children in America will start school ready to learn.

Goal 2—High School Completion: By the year 2000, the high school graduation rate will increase to at least 90 percent.

Goal 3—Student Achievement and Citizenship: By the year 2000, American students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

Goal 4—Science and Mathematics: By the year 2000, U.S. students will be first in the world in science and mathematics achievement.

Goal 5—Adult Literacy and Lifelong Learning: By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Note: Applicants interested in the invitational priority addressing libraries and their contributions to achieving the National Education Goals may request from the program office the complete text of the six goals, including the objectives supporting each individual goal.

For Applications or Information Contact: Louise Sutherland, Acting Director, Discretionary Library Programs Division, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone (202) 219-1315.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 1021, 1032.

Dated: September 3, 1993.

Dick W. Hays,

Acting Assistant Secretary for Educational Research and Improvement.

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Part VI

Department of Transportation

Federal Aviation Administration

Explosive Detection Systems; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27026]

RIN 2120–AE77

Explosive Detection Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final criteria for certification of explosive detection systems.

SUMMARY: The FAA is issuing final criteria for the certification of explosive detection systems (EDS) to screen checked baggage for international flights. The criteria establish minimum performance requirements for EDS equipment. The proposed criteria were issued for comment on November 4, 1992 (Notice No. 92–16; 57 FR 52698). This action implements section 108 of the Aviation Security Improvement Act of 1990, which requires the Administrator to certify such systems prior to mandating their deployment. This document includes those portions of the criteria that do not contain sensitive security information.

EFFECTIVE DATE: September 10, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Butterworth, Director (ACP–1), Office of Civil Aviation Security Policy and Planning, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. 20591, telephone 202–267–8058.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number.

Release of National Security and Sensitive Information

The Assistant Administrator for Civil Aviation Security has determined that certain portions of the final criteria are of national security concern and require safeguarding from unauthorized disclosure pursuant to Executive Order 12356 (National Security Information). Further, pursuant to 14 CFR part 191 (Withholding Security Information from Disclosure Under the Air Transportation Security Act of 1974), certain unclassified information has been determined to be sensitive security information. Upon request, the complete criteria will be provided to prospective manufacturers of explosive detection equipment, and other interested parties with a bona fide need to have the complete criteria, provided such persons have appropriate authorization for access to U.S. Government national security information and/or security sensitive information.

Availability of Criteria

Persons requesting access to, or a copy of, the complete text (including all classified and sensitive security information) of the "Final Criteria for Certification of Explosive Detection Systems," may write to the Federal Aviation Administration, Office of Civil Aviation Security Operations, Attention: FAA Security Control Point (ACO–320A), Docket No. ACP–27026–C, 800 Independence Avenue, SW., Washington, DC 20591.

Individuals requesting the final criteria must include information regarding authorizations and security clearances for access to U.S. Government national security information, and sufficient explanatory information supporting the request to demonstrate a bona fide need to know the information contained in the final criteria.

Background

During the past two decades, the FAA has been working on the development of explosive detection equipment, with the initial explosive detection research and development (R&D) efforts beginning in 1977. As a part of these R&D efforts, in 1983 the FAA established a formal, internal statement of detection and false alarm performance goals for explosive detectors for checked baggage, air cargo, carry-on baggage and passengers. Based upon additional information and further evaluation, these FAA explosive detection goals were revised and upgraded in 1986 to reflect the changing terrorist threat to civil aviation. Portions of these performance requirements were further revised in August 1989 in anticipation of using explosive detection equipment for screening international checked baggage.

The December 1988 catastrophic bombing of Pan American World Airways Flight 103 over Lockerbie, Scotland, increased the focus on explosive detection capabilities and the desire to prevent recurrences of such an event. This tragedy prompted the passage of Public Law 101–45 (June 30, 1989) containing the following requirement, that—

Not later than thirty days after the date of enactment of this Act, the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection systems that meet minimum performance standards requiring the application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such system is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of the Act.

As a result of this statutory mandate, on July 10, 1989, the FAA issued a notice proposing to amend 14 CFR 108 to require U.S. air carriers to use an explosive detection system (EDS) for screening checked baggage on international flights (54 FR 28985). Thereafter, the FAA issued a final rule (14 CFR 108.20, effective on October 5, 1989) specifying the procedures for deployment by air carriers of systems for screening checked baggage (54 FR 36938), when their security programs are amended by the FAA. Section 108.20 provides that—

When the Administrator shall require an amendment under § 108.25, each certificate holder required to conduct screening under a security program shall use an explosive detection system that has been approved by the Administrator to screen checked baggage on international flights in accordance with the certificate holder's security program.

Responding to the Pan Am 103 tragedy, on August 4, 1989, former President Bush established the President's Commission on Aviation Security and Terrorism (Commission) (E.O. 12686). The Commission was tasked to assess the overall effectiveness of the U.S. civil aviation security system.

The Commission's May 15, 1990, report presented a series of recommendations intended to improve the U.S. civil aviation security system, which is administered by the FAA's Office of Civil Aviation Security. The Commission generally criticized the FAA's explosive detection requirements, and specifically criticized the detection capabilities and false alarm rates of the thermal neutron analysis explosive detection system. The Commission's report recommended that the FAA "* * * should undertake a vigorous effort to marshal the necessary expertise to develop and test effective explosive detection systems." The Commission's recommendations formed the basis of the Aviation Security Improvement Act of 1990,

Public Law 101–604 (the Aviation Security Improvement Act or the Act).

Section 108 of the Act amends Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341–1358) by adding, among others, a new section 320, entitled Deployment of Explosive Detection Equipment. This section provides specific guidance on how to implement 14 CFR 108.20. Section 320 provides in pertinent part that—

No deployment or purchase of any explosive detection equipment pursuant to sections 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

The Act further mandates that the FAA complete an intensive review of security threats to civil aviation, and establish and carry out a program to accelerate R&D efforts. As evidence of the concern for prompt action, section 107 of the Act states in pertinent part that—

It shall be the purpose of the [accelerated research and development] program to develop and have in place not later than 36 months such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

In 1990, two other significant reports were issued subsequent to the report of the President's Commission, the first by the National Academy of Sciences and the second by the Congressional Office of Technology Assessment. These organizations recommended that the FAA set EDS standards that require detection of substantially smaller amounts of explosives than previously specified. In addition, they made recommendations regarding false alarm rates, throughput and other parameters, and stated that it is generally accepted that no single technology can currently, or in the near future be expected to, meet these substantially more stringent requirements.

Development of the Final Criteria

Issuance of the final criteria responds to the statutory mandate for testing and certifying EDS equipment and takes into account the comments received regarding the proposed criteria in Notice No. 92–16. In October 1991, the FAA completed an internal review of all previous studies, reviews, analyses and other materials associated with explosive detection. The review was the most extensive examination yet conducted of previous classified and non-classified technical reviews and available information on the amounts, types and configurations of explosives used in attempted or successful acts of sabotage against civil aviation.

This review provided the basis for developing the proposed criteria. The proposed criteria were based upon the best scientific, intelligence and investigative information available. The amounts and types of explosives specified in the proposed criteria reflected the advice and counsel of the intelligence community, including, among others, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Defense, and the Department of State. The FAA also consulted with a number of independent experts in the scientific community (both from within and outside the Federal government) in early 1992, including prominent scientists on the Aviation Security R&D Subcommittee of the FAA Research, Engineering and Development Advisory Committee, as well as the National Academy of Sciences.

While the FAA has a high degree of confidence in the information gathered for developing the criteria, the Agency, in consultation with the intelligence and scientific communities, continues its efforts to analyze potential changes in the capabilities of and attack methods used by terrorists. Further, the FAA is engaged in an aggressive research program to develop additional scientific and analytical data to more precisely quantify the elements of the criteria, and to perform laboratory and field test validations of those elements. This includes the research being conducted on aircraft and cargo container hardening.

Based on the need to respond to changes in the methods used by terrorists, it is possible that, at some future time, these on-going projects may identify changes in the amounts, configurations, and types of explosive material that might be used to cause catastrophic damage to commercial aircraft. In that case, the criteria will be amended appropriately, although any changes are expected to be small. This issue is addressed in the discussion of comments section of this document.

The FAA recognizes the requirement of the Act to move expeditiously to put in place new equipment to combat the technological challenges of terrorism. The release of the final certification criteria is an essential step in the process of deploying effective EDS to improve aviation security. It is critical to facilitating efforts of manufacturers and system integrators to develop, combine and test such systems. The FAA contends that there may be combinations of technologies available now (or in the near future) that can be effectively integrated to meet the criteria, and encourages potential vendors to combine their resources to build systems as rapidly as possible.

Management Plan for Certification Testing

The FAA has prepared a separate management plan outlining the framework for EDS certification testing. The draft version of this management plan for EDS certification testing is based upon the general testing protocols developed independently for the FAA by the National Academy of Sciences and incorporates comments to the draft criteria as noted in the discussion of comments. The Notice of Availability of this draft document was published in the **Federal Register** on June 22, 1993 (58 FR 33967).

Discussion of Comments

The FAA received 18 comments responding to issues raised in the unclassified portion of the Explosive Detection Systems; Proposed Criteria for Certification, Notice No. 92–16. The commenters include: Air Line Pilots Association (ALPA); Air Transport Association (ATA); Airports Association Council International (AACI); Department of Transport, United Kingdom; Families of Pan-Am 103/Lockerbie; numerous manufacturers of explosive detection equipment; and National Association of Photographic Manufacturers.

The following discussion addresses the views of the commenters and the FAA's response to the issues raised.

Relating Criteria to Deployment

Six commenters discuss several recommendations and concerns over the future use of the EDS equipment. Specifically, the respondents express concerns regarding the use and the placement of the equipment by the carriers, along with questions on the effect EDS deployment will have on current security procedures.

Two of the commenters, AACI and ATA, contend that the EDS cannot be approved until the FAA indicates a need for the equipment. ATA argues that the EDS equipment will be expensive and should only be required

where there is a clear justification, contending that neither certification nor mandated deployment should occur until the threats which the EDS are intended to counter are established and the operational and economic implications are evaluated. AACI also argues that the threat should be established indicating the need for the EDS before the requirements are implemented. AACI also points to the FAA Technical Center's efforts to develop a computer simulation program to analyze the effects of EDS on airport operations and traffic flow as an example of research that should be completed prior to mandated deployment of the equipment.

Two commenters discuss other countries' efforts on explosive detection. One states that in the United Kingdom the explosive detection equipment used for screening is located at or near the check-in area. The commenter contends that this placement is preferred because the passenger is available to resolve any threat bags. The other commenter indicates the deployment of advanced technology is 3 to 5 years away. The commenter argues that several European countries are closer to deployment of explosive detection equipment and encourages the FAA to work with its European counterparts to coordinate the standards. This commenter contends that the delay in mandated deployment is in conflict with the "purpose of the accelerated research and development program to develop and have new equipment in place not later than 36 months." It also argues that the government should establish some form of financial incentives to allow funding of the purchase and deployment of this equipment at Category X airports.

Several commenters discuss the issues surrounding the effect the mandated deployment of EDS will have on the current security procedures and the placement of the equipment in airports. One of these commenters believes that the proposed criteria did not address the scope of specific deployment at any facility (e.g., use at the check-in area or in the baggage make-up area), but expresses the opinion that this issue will clearly have the greatest physical impact on facilities. The commenter adds that using EDS for targeted flights, selected baggage or specified locations requires physical planning different from that required for a 100 percent coverage for all international flights. Another commenter states the FAA must clearly determine the use of EDS equipment to structure the certification requirements and its effect on current security procedures (e.g., use of EDS should exceed the effectiveness of current security procedures). The commenter contends that EDS deployment will determine the degree of sophistication required by the equipment. The commenter also argues that if EDS is not intended to replace current procedures, the use of such equipment must provide appreciable, economic enhancements to existing procedures.

Another commenter states that locating the EDS at the check-in counters or in the queue prior to the ticket counter would be convenient because the passenger would be available to assist in resolving possible threat bags, although it could require specific shielding standards. This commenter further states that employing EDS within the baggage system would have the greatest impact on facilities and would require an extra effort to match the passenger with the bag, if a search is necessary. Overall the commenter states that physical planning and airport operational issues are major determinates for EDS criteria. The commenter concludes by stating that the extent of mandated deployment and the detailed physical operating issues for any existing or planned terminal facility must also be addressed.

An equipment manufacturer believes that criteria are needed as the first step towards deployment and that it will provide invaluable direction and definition to the efforts of equipment manufacturers. However, this commenter is concerned as to when the deployment will become mandatory explaining that the proposed criteria document indicates deployment will not occur until several EDS have been certified. This commenter contends that a mandatory deployment date should be set based on a suggested maximum cost per bag, even if only one system is certified.

Response: While the criteria for certification of EDS equipment will affect the eventual mandated deployment decision, the FAA is handling the criteria and the deployment decisions separately. The FAA's existing security requirements are, and mandated deployment of EDS equipment will be, threat-driven.

The mandated deployment of EDS equipment will be phased-in and the deployment decision cannot be made until at least one EDS has been certified. The speed, scope, and priority of the deployment will be dependent upon the analysis of current and probable future threats with the initial deployment targeted at higher risk locations. The total life cycle costs associated with mandated EDS deployment will also be considered during the deployment decision, including costs for installation, personnel, maintenance, operations, and delays. This analysis will also consider unit availability, and specific EDS employment issues such as throughput, weight, size, and even power supply requirements. Ideally, the FAA would like to avoid full scale mandated deployment until at least two or more systems are certified, in order to promote competition and reduce per unit costs.

The FAA will also carefully consider whether existing security procedures may be modified or eliminated as a result of mandated EDS employment. The FAA's goal will be to avoid redundancies and to capture potential cost savings.

The FAA seeks to maintain flexibility in the operation of EDS equipment. For that reason, the criteria do not specify precise operational parameters because that may constrain the ability of designers to develop systems that could address the tremendous diversity in operating environments.

As part of the pre-certification vendor testing and data collection included in the draft Management Plan for EDS Certification Testing, the FAA has established a minimum level of operational analysis required before certification testing. If there are any substantial residual questions about the overall operating envelope (e.g., reliability, maintainability, life cycle costs to operate, adaptability to a variety of airport operating environments) of a particular EDS after certification testing, the FAA would work to resolve these questions through whatever means are practical including an operational airport demonstration prior to requiring deployment of that equipment. However, the costs, delays and other problems associated with full scale operational testing of EDS equipment at airports as a prerequisite for certification are not acceptable.

On a related issue, the FAA has modified the criteria allowing for reciprocal recognition of EDS testing and certification by aviation security organizations of foreign governments. This is discussed later in this document.

Finally, the FAA chose not to include a maximum cost per bag because several EDS units may eventually be certified for use. The estimated price ranges and capabilities of the equipment may vary considerably depending upon individual airport installation scenarios resulting in a range of values for calculating a cost per bag. For example, an inexpensive but slower EDS may be ideal for low volume applications even though it may have a higher cost per bag screened due to a lower usage rate.

Therefore, the FAA contends that it is inappropriate to include the calculated cost per bag limitation in the criteria.

General Operational Requirements

Four of the commenters address the general operational requirements proposed in the criteria. One commenter explains that because of the "professional" nature of many terrorists, the potential explosive devices may be of a quality that is not easily detected by configuration or components. Therefore, the commenter supports the requirement in the proposed criteria that the EDS be capable of detecting explosives.

Two commenters specifically discuss the use of X-ray equipment. The first references the FAA's past recognition of the need to have X-ray standards requiring either that the equipment not damage film, or that signs be posted notifying passengers of the potential damage to film. This commenter recommends that the statement in the proposed criteria, "the EDS must not cause damage or significant residual change to the luggage or its contents" apply to film being exposed to X-rays. The other commenter argues that it has been FAA's policy to allow the use of X-ray equipment that is not film safe provided warning signs are posted advising passengers to remove all X-ray, scientific, and high speed film before approaching nominally film-safe security equipment.

Another commenter also supports the requirement in the proposed criteria that the EDS be neither destructive nor invasive in nature. This commenter explains that the effect upon baggage and persons operating the equipment should be benign and any health hazards associated with the use of the equipment must be identified and resolved before certification.

Response: The final criteria adopt the requirement that the EDS detect explosives as proposed in the Notice. Under this requirement, the detection must not depend on the shape, position, or orientation of the explosive or configuration of an improvised explosive device (IED). The criteria focus on the detection of the explosive because the primary explosive charge is the essential, unique component that differentiates between a bag that represents a potentially catastrophic danger to an aircraft and other non-threat passenger bags. This action is also consistent with section 320 of the Act which describes the EDS equipment as able to: detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

On the issue of a film-safe X-ray requirement, the final criteria have been modified to exclude highly sensitive materials such as photographic film from the requirement in the criteria that the EDS must not cause damage or significant residual change to the luggage or its contents. This action is similar to that allowed for X-ray systems used for screening checked baggage and its addition to the criteria is appropriate in order to not otherwise unduly restrict technologies that can be applied in developing an EDS. However, in an operational capacity, it will be necessary to post signs notifying the travelling public of the potential damage to highly sensitive materials such as film and warning the passengers to remove these items from checked baggage. The certification would be contingent upon the use of appropriate operations related procedures such as signage. This is similar to the current procedures for checkpoint X-ray equipment under § 108.17(e).

The FAA also has adopted the requirement as proposed in the Notice that the EDS must not pose a health hazard to the operators or the public. Therefore, the FAA anticipates any health hazards associated with the use of the equipment will be identified in the manner outlined in the management plan for EDS certification testing and resolved before the equipment may be certified.

Detection Requirements—Checked Baggage

One commenter expresses concern about the EDS requirement to detect a specific quantity of explosive. This equipment producer suggests the language be modified to reflect the requirement that the EDS detect the amount of explosive equal to or more than that specified.

Another commenter questions the definition of the term "checked baggage." This commenter contends it includes originating and transfer baggage at the international gateway. The definition influences the screening and bag reconciliation processes and affects the space necessary to perform these functions along with the time requirements for processing.

A third commenter states a need to combine acceptable detection rates for all known available explosives, particularly those previously used by terrorist and extremist groups.

Three commenters believe that the FAA should focus on the types of explosives that represent the highest threat. One of these commenters states that a category of explosives appears on the classified list that is not included in the European Civil Aviation Conference (ECAC) standards currently under consideration by member countries. The United Kingdom's Department of Transport states that the range of explosive types proposed in the criteria is probably greater than what it would consider constitutes the greatest threat. In previous correspondence to the FAA, the Department of Transport had explained that it has concentrated on one group of explosives which historically had been the material used by terrorists.

Response: The FAA included a clarification in the final criteria on the quantity of explosives which must be detected. It has always been the intention of the FAA that the EDS equipment have the capability of finding not only the threshold amounts but also be able to find larger quantities of explosives.

The FAA has added to the Criteria a definition of the term "checked baggage" which applies to all bags, regardless of whether the bags accompany a passenger on a particular flight, that are in the cargo hold including originating and transfer baggage at the international gateway.

The detection rates in the final criteria are based on an extensive examination of the best information available on the amounts, types and configurations of explosives used or likely to be used in attempted or successful acts of sabotage against civil aviation. In developing the criteria, the FAA consulted with experts from the intelligence and scientific communities, particularly regarding the types and amounts of explosives specified in the criteria. The resulting criteria represent the consensus of the FAA and these experts regarding the types and minimum threat quantities of explosives most likely to be used against commercial civil aircraft to cause catastrophic damage.

However, based on the comments and a further analysis of the threat by type, location, and historical experience, the FAA has modified the classified portion of the criteria. The FAA's goal is to establish realistic criteria to certify systems in a timely manner while meeting the Act's requirement to detect explosives "likely to be used" based on an analysis of the threat. Adopting this strategy for the certification criteria is likely to speed up the rate at which certified equipment will be available for use at many locations.

Throughput Rate (Relates to Criteria and Performance Requirements)

Of the six commenters responding to the throughput rate issue, only one commenter supports the proposed 450 bags per hour rate. However, this commenter (an equipment producer) wants to provide only one device for certification testing and approval when more than one identical device or "module" will be operated in parallel as a "system" to meet the system throughput processing. This commenter recommends testing one module with the expectation that an EDS would consist of several identical modules operating in parallel. As a corollary to this issue, the commenter justifies its request on the basis that it would cost too much for it, a small business, to send three machines or modules for testing.

The remaining five commenters, including ATA, an airport operator and several equipment manufacturers and suppliers, believe the proposed throughput is too slow. One of these commenters is concerned about the proposed automated processing rate, stating that it would take more than one hour to clear the baggage for a single Boeing 747. However, the commenter makes no specific recommendation for an acceptable rate. This view was supported by another commenter who believes that the proposed rate is quite slow for "on-line" equipment. The commenter explains that in a major international operation conveyors operate at speeds equivalent to 40 bags per minute, processing between 3,500 to 5,000 originating and transfer bags during peak hours. The commenter estimates it would take 8 to 14 detection systems operating at the proposed rate to provide full on-line capability.

Two commenters state the throughput rate should be a minimum of 600 bags per hour. According to one of these commenters, the traditional rate has been 600. The commenter contends that lowering the throughput rate from 600 to 450 would increase the infrastructure and labor cost by 25 percent to achieve the same passenger flow rate. The commenter also states that the standard must prevent delays in baggage processing because those delays have a "devastating" effect on the ability of carriers to dispatch aircraft on-time. In addition, the processing equipment must have a very low false alarm rate (although none was specified by the commenter).

A commenter explains that the resolution of false alarms should be factored into the throughput rate. This commenter recommends that the 450 throughput rate include the resolution of all false alarms. According to this commenter, the product of the false alarm and the average time to clear the alarm are important. However, the commenter provides no specific suggestions on how this could be tested and measured and notes that the nature of false alarms affects the economic utility of the system.

The fifth commenter contends that the 450 bags per hour rate is signficantly too slow. The commenter recommends the rate be increased to 2,500 bags per hour (which is a belt speed of at least 100 feet per minute). The commenter contends that the FAA should not approve systems that will cause delays and force excessive expenditures (although these terms were not quantified by the commenter). The commenter notes that in an operational setting, the bags do not flow at an even rate. Therefore, a slow EDS would require complex, automated bag holding facilities to handle bags awaiting processing, and it would be operationally impossible to place bags on a belt to allow the EDS to function at its maximum rate.

The commenter expands on this issue by explaining that the 450 rate would cause delays or result in requiring passengers to arrive earlier. The commenter believes multiple modules linked in parallel requires more complex baggage handling conveyor equipment, more room to accommodate the screening and processing equipment, more personnel and higher expense to buy extra equipment.

Response: Standards are established in the final criteria for approving an EDS with specific requirements that must be met for the entire automated system. The criteria does not include a provision for dividing the system into "modules" for approval, as requested by one commenter. Rather, the FAA will evaluate the entire system performance to ensure that the manufacturer has effectively integrated the equipment components into a total "system" and that the "system" meets all of the minimum performance requirements for certification.

The FAA established the requirement for throughput to provide a minimum standard for developing the systems by the manufacturers. However, it must be recognized that the throughput rate of the systems is extremely important when considering the eventual mandated deployment and placement of the equipment. For instance, the placement of the equipment within the air carrier baggage processing system will heavily influence the need for high throughput capabilities for individual devices or components (e.g., centralized screening would require faster throughput rates versus decentralized screening at the check-in area or other intermediate points, as would screening all baggage versus screening selectee baggage). Likewise, a manufacturer's focus on producing equipment that exceeds the minimum rate may influence the cost and the timing of the equipment availability.

The final criteria retain the minimum throughput rate of 450 bags per hour as proposed in the Notice. While high overall throughput may be necessary at many locations, which could be accommodated by having more than one EDS, other locations may not have high throughput needs. Therefore, the FAA does not want to exclude manufacturers from offering relatively slow systems provided that they meet the minimum rate. System cost is affected by throughput rate and certification should not be geared solely for high volume locations. Moreover, in establishing the criteria, the FAA prefers that manufacturers place emphasis on meeting the explosive detection requirements with reasonable false alarm rates rather than focusing on faster throughput rates. By retaining the 450 bags per hour rate, the FAA contends that the air carriers' choices of certified systems of varying throughput rates will be broader and ultimately made through marketplace decisions of individual purchasers. The FAA is also concerned about the possible delay in the availability of EDS equipment if higher throughput rates are required. As discussed previously, the throughput rates of certified systems will be factored into, and will significantly influence the timing, scope and speed of FAA's deployment decisions on EDS equipment, because they affect one of the most important factors—delays.

The automated throughput rate does not include the resolution of alarms. However, additional information that may be provided as a result of the automated screening process (e.g., location of the source of the alarm in the suspect bag) could assist in the resolution of the alarm and is a key element in the marketability of the equipment. Similarly, false alarm rates substantially below the maximum permitted in the criteria for EDS certification, although a separate factor from throughput rate, will be an important element in the practical operational use and marketability of certified systems.

Overall Performance Requirements

Three commenters address the resolution of bags identified during the EDS screening process as "suspect."

Two of these commenters recommend that procedures for treating bags that are rejected by the automated screening process be established by the FAA. The commenters contend that it is unclear if these bags are a threat and how to consistently and reliably resolve or reconcile these bags. Also, the commenters explain that different EDS designs are required if procedures mandate immediate removal of bags to a containment area versus procedures that focus on calling the passenger to open the bag and assist in resolving an alarm before it is considered an immediate threat.

The third commenter addresses the Notice's omission of procedures to handle the detection of guns or knives that may occur during EDS screening. The commenter contends that this will affect the processing rates due to the need for reconciliation.

Response: The treatment of suspect bags after an initial automated alarm is an operational issue that is more appropriately addressed in each air carrier's security program rather than the criteria. These procedures will be unique to the use and location of the machines in the carrier's system and the type of additional alarm information provided by the equipment. Manufacturers should be aware that the procedures, and consequently the time necessary to resolve these suspect bags, are dependent, in part, on the type, detail, and accuracy of information provided to the screener by the EDS equipment. These capabilities will influence the marketability of the equipment to potential users.

The purpose of EDS is to identify the presence of explosives that represent a direct, potentially catastrophic threat to the safety of the aircraft and its passengers, not weapons which would be inaccessible to passengers while the aircraft is in flight. However, the possibility of identifying weapons or hazardous materials during the EDS screening process does exist and may represent an additional benefit that would be factored into the future deployment decision. These situations should continue to be handled as currently addressed in the FAA regulations and air carrier security program requirements.

Other Operational Considerations

Six commenters, an airport operator, AACI, ATA, Department of Transport United Kingdom and two manufacturers, address the operational considerations of EDS equipment. The comments cover both the actual operation of the equipment in an airport and its affect on the development of the equipment.

The airport operator argues that airports cannot accommodate an EDS that is not materially faster, smaller, lighter, cheaper and more reliable than TNA equipment. AACI contends that the operational effect must be analyzed so that problems associated with TNA (i.e., size, weight, shielding, power requirements, throughput rates, queues, congestion at check points, requirements for ancillary explosives handling staff, equipment and facilities at airports) are addressed. Representing the air carrier's views, ATA states that the EDS should be able to operate using existing electrical services and airport facilities. This commenter also notes that the equipment should not require structural or utility modifications in order to be usable; therefore, the size and weight are important elements in the design.

The equipment manufacturers respond to the statement in the proposed criteria, "the FAA will not require carriers to purchase and deploy EDS unless equipment is practical for use under realistic air carrier operating conditions (cost, size, weight, reliability, maintainability, availability and cost effective)." One commenter believes that this may serve as a disincentive because the risk to producers becomes unacceptable when the criteria does not clearly define these operational considerations. This producer recommends that the FAA synthesize these other performance factors into one criterion—the maximum cost per screened bag. The commenter contends that the cost can be related to acceptable alternates and can be defined for given throughput rates and hours of operation. The other manufacturer also argues that the shielding requirements from accidental detonation must be determined.

Response: Although the FAA is keenly aware of the industry's experience with TNA, and its concerns about cost, size, weight and throughput, these operational considerations are not part of the critical detection requirements in the certification criteria. Further, specific criteria for these parameters would not universally apply to the various baggage screening scenarios (e.g., centralized screening in baggage makeup areas versus decentralized screening at each check-in counter, as well as selectee screening versus screening all baggage) that could be implemented based upon conditions at individual airports, the FAA's threat-based screening requirements, and the equipment choices made by the air carriers. The total life cycle costs associated with mandated EDS deployment will be fully considered during the deployment decision making process (i.e., costs for installation, personnel, maintenance, operations, and delay). This decision will also include consideration of unit availability, and specific EDS deployment and utilization issues such as throughput, weight, size, and power supply requirements. As previously addressed, these types of issues will be considered and evaluated as part of any future deployment decision.

The criteria specifically provide that these operational considerations will affect the timing and scope of any FAA mandated deployment of EDS equipment. These factors also will have a substantial effect on the marketability of EDS equipment developed by a manufacturer to the air carriers. The FAA contends that these marketplace issues serve as appropriate incentive for the manufacturers of EDS equipment, and that it would be inappropriate to establish specific parameters in the certification criteria that would serve to limit the creativity of manufacturers in developing equipment and integrating technologies.

System Certification and Testing

Five commenters (ATA and four manufacturers) address system certification and testing. Three of these commenters address the cost of testing the equipment, the location of the testing, and the need for operational testing.

The first commenter states that it is expensive to transport the EDS equipment to the FAA Technical Center in New Jersey and assemble it there. Instead, the commenter recommends that the FAA provide the option of FAA testing in an operational setting as long as the criteria can be approximated to the satisfaction of the test director.

The second commenter argues that the government should bear the FAA laboratory costs because these costs are outside of the manufacturer's control. Likewise, the commenter recommends that the government bear the costs resulting from the FAA's laboratory limitations and recommends that the FAA explain the means for replicating operating conditions in the certification test plan. The commenter also contends that the FAA laboratory may not be suitable or capable of testing some EDS equipment and suggests that alternative approaches be used. This commenter suggests that the choice of bags and their contents may influence test results. Specifically, the commenter recommends that the bags represent the

actual types encountered in day-to-day air carrier operations.

The third commenter explains that the operational testing is important because security devices that do not perform at very high levels of reliability wreak havoc with air carrier operations. The commenter recommends that operational and maintenance requirements be included in the criteria, along with a one-year evaluation at a category X airport as a prerequisite to certification. The commenter argues that this evaluation is necessary to fulfill the requirements of section 320 of the Federal Aviation Act which specifies that the device must be capable of detecting "under realistic operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft." This commenter references the portion of the Notice that states the certification test plan is being prepared but has not yet been adopted. The commenter suggests that this plan be completed because it may result in changes to the certification criteria, which would have an adverse effect on vendors, especially small businesses.

One commenter supports providing specific systems information; however, it is concerned that the "not limited to" phrase will require the submission of source code information for all computer plans which could be proprietary and not protected. To address this concern, this commenter suggests the following language be inserted in the criteria: prior to final certification, the FAA will require manufacturers and vendors to provide all system documentation required to install, calibrate, maintain, and operate the system in the field environment.

Another commenter requests that the FAA promulgate criteria for a full checked baggage screening system with requirements for both a primary automatic and secondary screening. The commenter also recommends that the automatic mode detection rates include criteria for additional screening of bags rejected by primary screening, thus requiring the FAA to issue a certification test plan for secondary explosive detection devices.

In addition, one commenter requests that the FAA examine the procedures and standards which will be required to routinely test detection performance once the equipment is installed.

Response: The FAA acknowledges that, in rare cases, there may be extenuating circumstances making it impractical for the equipment to be accommodated at the FAA Technical Center. The FAA will, on a case-by-case basis, consider requests for an exception to the requirement for testing the equipment at its Technical Center facilities. The request for an exception must explain in detail why such testing is in the best interests of the government and indicate the methods, procedures and controls that will be used to provide testing equivalent to that conducted at the FAA's facility. Any additional expenses for off-site testing of the equipment by FAA testing personnel must be paid for by the equipment manufacturer.

The payment of these expenses by the manufacturer is consistent with the requirement in the criteria that the manufacturer pay for the direct costs associated with testing and certification at the FAA Technical Center. FAA's policy requires manufacturers to pay for these costs for several reasons, including the economic benefit that accrues to a manufacturer when it has obtained FAA certification of its equipment.

Several commenters raise issues associated with the FAA's testing requirements and procedures. These comments should be directed to the draft Management Plan for EDS Certification Testing containing the specifics on how the certification tests will be conducted. Notice of this document's availability for comment by inserted parties appeared in the **Federal Register** on June 22, 1993 (58 FR 33967). Individuals wishing to obtain a copy of the draft document should submit a written request to the Aviation Security R&D Service (Attn: ACA–1A), Federal Aviation Administration, Technical Center, Atlantic City, NJ 08405, or facsimile (609) 383–1973.

As previously discussed, operational testing is proposed in the draft Management Plan to be a part of the vendor testing and data collection required prior to the equipment being submitted to the FAA for certification testing. These proposed requirements are contained in the draft Management Plan for EDS Certification Testing. The FAA recognizes that many vendors utilize airport data collection and testing during the development of their systems. The FAA will continue to provide assistance to vendors for the placement of equipment for testing, collecting data and improving technologies. This data, combined with other experience gained in U.S. or foreign airport demonstrations, will be carefully considered by the FAA in the deployment decision making process for EDS.

The FAA has added a provision to the criteria allowing for the reciprocal recognition of EDS testing and certification by aviation security organizations of a foreign government. The foreign government testing will only be acceptable based on the negotiation of an appropriate security technical exchange agreement. The agreement must include assurances to demonstrate compliance with the FAA Certification Criteria using strict quality control procedures consistent with FAA testing procedures, and provide full reciprocity for certifications issued by both the foreign government aviation security organization and the FAA.

The final criteria require vendors to provide full system documentation prior to certification. The FAA must have all the required information to fully evaluate and document the equipment as part of the certification process. Data submitted to the FAA that is clearly identified and properly marked as proprietary will be handled in a confidential manner consistent with federal requirements for protecting proprietary information provided for federal certification.

As discussed by one commenter, the FAA adopted requirements in the criteria for full documentation of routine field testing procedures and test objects to be used along with operating procedures. These requirements are identical to those proposed in the Notice.

Component testing

Four commenters recommend testing components that do not meet the criteria established for an EDS. The first commenter disagrees with the concept included in the proposed criteria of not approving the use of an explosive detection device (EDD). This organization contends that an EDD can and should be used to supplement existing security systems prior to the deployment of EDS. This view was supported by another commenter who encourages the FAA to deploy EDD equipment should there be no complete system available that meets the EDS performance standards. The commenter believes the EDD increases the chances of detecting an IED and the use of EDDs should be encouraged by the FAA.

Three commenters state that the FAA should indicate the technologies which can be combined to make an EDS and that it should provide the supporting documentation. One of the commenters recommends that the FAA implement a "qualifying program" for EDDs so that a systems integrator can develop a complete system. The commenter contends that this could affect partnerships by redirecting the efforts of producers and reducing development time.

Response: A definition for an EDD has been included in the final criteria for clarification and to provide better guidance to a potential manufacturer. An EDD is defined as an automated bulk explosive detector that is capable of meeting the detection requirements for at least one of the categories of explosives in the criteria. The FAA will attest to the capabilities of EDDs where applicable as it had proposed in the Notice. As part of the future deployment decision, the FAA is evaluating approval of EDDs for limited applications under certain circumstances providing that all critical explosives detection requirements have been met. For example, an EDD which meets all but the throughput criteria may have a potential use at low volume locations. At this time, however, the FAA strongly encourages manufacturers to focus their resources on the development of equipment which can be certified as an EDS.

While the FAA is not providing specific recommendations for combining technologies, it will continue to provide technical advice and consultation to equipment producers. For example, an appropriate mechanism could be developed through a cooperative research and development agreement (CRDA) with the FAA Technical Center. Use of a CRDA could assist a manufacturer of EDS equipment in identifying technologies that may be compatible and provide complementary strengths that would improve overall system performance.

Future Modification of Criteria

Two commenters, ATA and an equipment manufacturer, address possible future changes that might affect the certification criteria.

ATA contends that the certification criteria will effectively freeze the technological development of EDS. It explains that an air carrier would not be able to replace EDS equipment every time a vendor produces a device with enhanced features. ATA recommends that each candidate system for certification demonstrate its effectiveness under current threats and its ability to adapt to future threats. This is especially important because the costs of EDS, and the possibility that the certification criteria may make it necessary for multiple units to be operated in tandem to form a system, require that any equipment certified be capable of responding to new security demands. ATA argues that the FAA's current threat assessment needs to be updated prior to making a final decision on the criteria.

The equipment manufacturer is concerned that future changes may result in decertification of existing equipment. It also expresses concerns about future changes, including inventory strategies that mitigate the risk of decertification, reduced equipment and spare parts availability, and overshooting the design criteria all of which may result in higher costs and delays in availability.

Response: As described previously, the FAA has developed the criteria in close consultation with the intelligence and scientific community based upon the best information currently available and has a great deal of confidence in the quality of the information used as the basis for establishing these criteria. However, should the need arise to make the criteria more stringent and to require the upgrading of EDS equipment, the FAA will give air carriers an adequate opportunity to recover their investment in equipment certified under these criteria. The standards may be relaxed if threat against aviation is significantly reduced, or progress in the aircraft hardening program develops, or other changes or improvements to the security system occur.

Although not a requirement for obtaining certification, equipment with built-in sensitivity and selectivity adjustments capable of adjusting to varying detection thresholds and requirements would be received favorably. Because many technologies have an inherent range of sensitivity settings for detection, such add-on features increase the equipment's attractiveness to potential purchasers and to the FAA.

Regulatory Flexibility Determination

One commenter contends that the estimates included in the proposed criteria on the economic affect the criteria would have on small business is not correct. The commenter takes exception to the statement in the proposal that, "small businesses (less than 175 employees) which are manufacturers of EDS equipment should not be significantly impacted (i.e., incur costs of more than $13,130 per year) by the proposed action." The commenter argues the total economic costs will be far greater than this amount.

Response: This commenter apparently confused the imposition of such costs for small businesses with the development and other capital costs. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." Under these criteria, manufacturers may willingly choose to incur capital costs with the anticipation that its equipment would be certified by the FAA and available for use by the air carriers when the deployment of such equipment is required. Because a prospective EDS manufacturer is not required by regulation to produce an EDS or EDD, such costs are not covered by the RFA and are not considered to impose a significant impact on small businesses.

Executive Order 12291 (Federal Regulation)

Executive Order 12291 (E.O. 12291), dated February 17, 1981, directs the Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that no cost benefit analysis is needed for the establishment of criteria for certification of explosive detection systems and related steps such as the certification test plan. Any final decision on the deployment of EDS will be the subject of further review, according to the requirements of E.O. 12291. In this regard, the Department determined that the rule authorizing deployment of an EDS for screening international flights was a major rule as defined in the Executive Order. Based upon circumstances and information available at the final rule stage in 1989, the FAA determined that the EDS available at that time, (the Thermal Neutron Analysis (TNA) device), would be cost-beneficial. The FAA's deployment strategy requires deployment of effective EDS equipment in the most cost-effective manner.

Information relevant to deployment decisions was developed in the 1989 final rule (54 FR 36946) in terms of the development, installation, and annual operating costs of a TNA device. However, as the certification process and policies affecting deployment of any EDS proceed, further review will be given to all relevant issues, including changed circumstances, influencing the ultimate decisions on the timing and scope of deployment. The FAA will

analyze the information submitted by the manufacturers during the certification testing process to determine the future decisions on the scope and timing of deployment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." Small entities are independently owned and operated small businesses and small not-for-profit organizations.

Under FAA Order 2100.14A, the criterion for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. This Order indicates size and "significant impact" thresholds for specific entity types related to the aircraft industry. There is no entity categorization in this Order for manufacturers of this type of equipment. The closest applicable Standard Industrial Classification for these manufacturers is No. 3728, which is for "manufacturers of aircraft parts and auxiliary equipment not elsewhere classified." For such small entities, the applicable size threshold is 175 employees. The FAA's criteria for "significant impact" for each of these manufacturers is $13,130 per year.

The small entities that could be potentially affected by the implementation of this criteria are small business enterprises that are or might seek to become manufacturers of EDS equipment. The number of small business enterprises that are in, or might seek to enter, this market cannot be determined.

The criteria would impose minimal costs on those small business enterprises. These costs are primarily for obtaining access to or copies of the classified and sensitive security information portions of these criteria. Because the incremental cost imposed by this action is expected to be small and certainly less than the aforementioned threshold level ($13,130 per year), the FAA finds that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. Law 96–511), there are no requirements for information collection associated with this action.

The Final Criteria (Excluding Sensitive Portions)

The following sets forth the entire text of the final criteria except those portions of the document that contain either national security information that requires safeguarding pursuant to Executive Order 12356, or sensitive security information that requires safeguarding pursuant to 14 CFR Part 191 of the FAR.

[**Note:** Paragraph markings (U) indicate that the content of the paragraph is unclassified consistent with standard procedures for paragraph markings in the original classified document.]

"Criteria for Certification of Explosives Detection Systems"

Introduction

(U) Prior to any requirement for the deployment or purchase of explosive detection equipment under 14 CFR 108.7(b)(8) and 14 CFR 108.20, Section 108 of the Aviation Security Improvement Act of 1990, Public Law 101–604, mandates the FAA to certify that, based upon the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the FAA, such equipment can detect under realistic air carrier operating conditions the amounts, configurations and types of explosive material likely to be used to cause catastrophic damage to commercial aircraft.

(U) These criteria establish the minimum acceptable performance requirements for an explosive detection system (EDS) to meet the mandate of Public Law 101–604 for certification by the FAA, and supersede previous EDS performance requirements established by the FAA.

Explosive Detection System Definition

(U) An EDS is an automated device, or combination of devices, which has the ability to detect, in passenger checked baggage, the amounts of different types of explosives as specified by the Federal Aviation Administration. The term "automated" means that the ability of the system to detect explosives, prior to the initial automated system alarm, does not depend on human skill, vigilance, or judgment.

[*Sensitive Portion of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion of the document addresses alarm resolution requirements subsequent to the initial automated alarm.]

General Operational Requirements

(U) The EDS must detect explosives from among all other materials found in checked baggage.

(U) The detection must not be dependent on the shape, position, or orientation of the explosive, or the configuration of an improvised explosive device (IED).

(U) The EDS must not pose a health hazard to the operators or the public (e.g. see 10 CFR 20, 51 [Nuclear Radiation] and 21 CFR 1020 [Ionizing Radiation]).

(U) The EDS must not cause damage or significant residual change to the luggage or its contents, other than highly sensitive materials such as photographic film.

Detection Requirements

(U) The detection of commercial and military explosives in baggage is affected by the type, quantity, and configuration of the explosive, as well as the bag and its contents. The EDS must reliably detect a mix of threat types and quantities of explosives selected by the FAA when any of these explosive materials are present in checked baggage.

(U) The term "checked baggage" applies to all bags, regardless of whether the bags accompany a passenger on a particular flight, that are in the cargo hold including originating and transfer baggage at the international gateway.

[*Sensitive Portion of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion of the document contains three tables that establish: (1) the types and quantities of explosive material that must be detected, and the minimum detection rate for each category of explosive for non-U.S. locations; (2) the types and quantities of explosive material that must be detected, and the minimum detection rate for each category of explosive for U.S. locations; and (3) the system performance requirements for the minimum detection rate and maximum false alarm rate. The tables specify the requirement to detect the minimum quantity and larger quantities of each listed explosive. The throughput requirement that follows appears in these tables, and is quoted below because it is the only item that is not sensitive security information.]

(U) Throughput: Minimum Automated Processing Rate of 450 bags/hour (not including alarm resolution).

Overall Performance Requirements

(U) All the criteria pertaining to detection rate, false alarm rate and

throughput are based exclusively on the fully automated component(s) or element(s) of the system.

[*Sensitive Portion of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion of the document includes information regarding requirements for no human intervention, detection rate, and false alarm rate. The throughput requirement that follows appears in this section, and is included below because it is not considered sensitive security information.]

(U) The cumulative system throughput processing rate during the certification tests must be at least 450 bags/hour (not including alarm resolution).

Other Operational Considerations

(U) In addition to the mandatory criteria discussed above, there are a number of other operational considerations that will influence any future FAA decision to require the use of EDS equipment for screening international baggage. While these considerations are not mandatory for certification of EDS equipment, they should be factored into development and design decisions made by potential manufacturers and vendors of EDS equipment.

(U) The FAA has not yet established precise EDS parameters which would serve to define what is practical or cost-effective (e.g., the precise physical characteristics such as unit weight and size, or the precise unit cost). Given the variety of airport and air carrier operating environments, the FAA does not wish to foreclose the development of technologies which may work under some, but not all, air carrier operating conditions.

(U) The FAA can, however, provide potential manufacturers and vendors, as well as air carriers, and airports with the following guidance. In general, EDS equipment that is less costly, smaller and lighter is more practical for use in a variety of airports than a system that is more expensive, larger and heavier—especially if such equipment would require separate structures or substantial modifications of existing terminal structures for installation or operation. Also, systems which are easily operated and maintained, and proven to be reliable, will be more acceptable than systems that require extensive specialized training for operation, calibration and maintenance.

(U) In addition, systems with throughput rates that substantially exceed the minimum rate established in the certification criteria are operationally more efficient in many applications, and are less likely to cause delays and congestion when large numbers of passenger bags must be screened in short periods of time. Further, systems that can be more easily integrated into existing passenger and baggage processing systems would be more acceptable to potential users.

(U) Trade-offs are often made among these and other operational considerations during the course of system design. For example, reliability, maintainability, and availability can usually be improved, but often at the expense of an increase in purchase price. While such trade-offs may not affect certification, they will be considered in decision making to require deployment of certified EDS systems.

System Certification

(U) The FAA will certify EDS equipment based upon the mandatory detection criteria for the purpose of developing a list of equipment that would be eligible for use by air carriers at the point deployment is made mandatory. Actions must be taken under 14 CFR 108.25 to establish a requirement to deploy EDS to screen international checked baggage.

[*Sensitive Portions of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion contains information on the Act's requirement to detect likely to be used explosives.]

(U) The FAA will not require air carriers to use certified EDS equipment until such time as the FAA determines that such equipment is available in sufficient quantities to satisfy air carrier needs, adaptable to various air carrier and airport operating environments, practical for use under realistic air carrier operating conditions (e.g., cost, size, weight, reliability, maintainability, and availability), and cost-effective.

(U) The FAA will only certify complete systems. It will not certify or approve for use, individual component devices. Prior to final certification, the FAA will require manufacturers and vendors to provide full system documentation including, but not limited to, recommended system installation and calibration procedures, minimum essential test equipment and devices, routine field testing procedures and test objects to be used, routine and emergency operating procedures, field preventative maintenance and repair procedures, and training programs.

Certification Testing

(U) Testing of EDS equipment presented to the FAA for certification will be performed in accordance with the FAA Management Plan for EDS Certification Testing based upon Detection of Explosives for Commercial Aviation Security, Appendix A, *A General Testing Protocol for Bulk Explosive Detection Systems* (National Academy of Sciences, National Materials Advisory Board, final report 1993). The FAA Technical Center in Atlantic City, New Jersey will perform certification tests for producers of candidate explosive detection systems. The EDS Certification Test Director at the Aviation Security Research and Development Service is the point of contact.

(U) As required by the Management Plan for EDS Certification Testing, manufacturers seeking FAA certification for their candidate EDS must submit complete descriptive data and their test results to the FAA prior to receiving permission to ship their equipment to the FAA Technical Center. The FAA reserves the right to visit the manufacturers' facilities for technical quality assurance purposes, require and/or monitor in-house tests, and review associated data prior to granting permission to ship equipment for certification testing.

(U) There may be extenuating circumstances that make it impractical for the equipment to be accommodated at the FAA Technical Center. Therefore, the FAA will consider requests for an exception that would permit the equipment testing at a facility other than the FAA Technical Center facilities. The written request must explain in detail why such testing is in the best interests of the government and indicate the methods and procedures that will be used to provide an equivalent test to those conducted at the FAA's facility.

(U) The FAA may recognize on a reciprocal basis EDS testing and certification conducted by a foreign government's aviation security organization. Such recognition by the FAA will only be considered if certain conditions are met including, but not limited to, negotiation of an appropriate security technical exchange agreement which assures compliance with the FAA Certification Criteria using strict quality control procedures consistent with FAA testing procedures, and provide full reciprocity for certifications issued by both the foreign government aviation security organization and the FAA.

(U) All direct costs associated with testing and certification (e.g., insurance, shipping, installation, set-up, technical operation, maintenance, calibration, disassembly, and FAA laboratory testing costs) must be borne by the manufacturers or vendors. The Management Plan for EDS Certification

Testing contains specific information on the incremental costs associated with testing performed at the FAA Technical Center facilities, or other locations.

Component Testing

(U) As part of the FAA Security R&D program, the FAA Technical Center evaluates devices whose capabilities do not meet all of these performance criteria. For instance, some of the devices that the FAA has evaluated have relatively low throughput rates and higher false alarm rates than the maximum acceptable rate. It will be possible, under certain circumstances, for a manufacturer of an automated bulk explosive detection device (EDD) to have the FAA test and evaluate the device, even when it is not expected to fully meet the EDS performance criteria (e.g., false alarm rate or throughput). An EDD is an automated bulk explosive detector that is capable of meeting the detection requirements for at least one of the categories of explosives in the criteria.

(U) Although only complete systems can be certified, FAA may attest to the performance of, but not certify or approve for use, EDDs or individual components. Attesting to the performance of EDDs is intended to assist manufacturers and vendors who are seeking partners with whom they can create a functioning EDS composed of multiple devices.

(U) Testing of EDDs will only be conducted: (1) on a first come, first served basis; (2) if adequate resources and facilities are available at the FAA's Technical Center facilities to permit such testing (The FAA will also consider requests to test the equipment at a facility other than the FAA Technical Center facilities. However, these requests will be given the lowest priority and will only be performed if it would not otherwise delay testing being performed by the FAA Technical Center.); (3) at a lower precedence than EDS certification testing; and, (4) if the FAA determines from the manufacturer's test data that there is a substantial likelihood that the device will meet the minimum detection criteria for one or more categories of explosives specified in these criteria.

Authority: 49 U.S.C. App. 1354, 1356, 1357, 1358a, 1358c, 1421, 1424, and 1511; 49 U.S.C. 106(g).

Issued in Washington, DC on September 3, 1993.

David R. Hinson,

Administrator.

[FR Doc. 93–22270 Filed 9–9–93; 8:45 am]

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federal register

Friday
September 10, 1993

Part VII

Department of Education

Federal Direct Student Loan Program: Proposed Information Collection Requests; Notices

DEPARTMENT OF EDUCATION

Federal Direct Student Loan Program

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education issues a notice inviting applications by schools to participate in the Federal Direct Student Loan Program (FDSLP) in the academic year beginning July 1, 1994.

EFFECTIVE DATE: This notice is effective on September 10, 1993.

DEADLINE DATE FOR REQUEST TO PARTICIPATE IN THE FDSLP: As required by statute, a school must submit its request to participate in the FDSLP by October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Lloyd Robertson, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-5162. Telephone: (202) 708-8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Loan Reform Act of 1993, part of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66), established a new loan program under title IV, part D of the Higher Education Act of 1965 as amended (HEA). Under this program, known as the Federal Direct Student Loan Program (FDSLP), loan capital is provided directly to student and parent borrowers by the Federal Government rather than through private lenders. This program replaces the direct loan demonstration program that was authorized by the Higher Education Amendments of 1992 (Pub. L. 102-325).

For the first academic year during which the FDSLP is operational, the year beginning July 1, 1994, the Secretary will select schools to participate in the FDSLP from those schools that have applied to participate in the FDSLP. The Secretary may also select additional schools if necessary to carry out the purposes of part D. The statute directs the Secretary to exercise his discretion in the selection of schools so that the loans made under the FDSLP will represent 5 percent of the new student loan volume for academic year 1994-1995. The goals for the percentage of new student loan volume in subsequent years of loans made under the FDSLP increase significantly. See Section 455(a)(2) of the HEA. The Secretary anticipates that schools selected to participate in the FDSLP in the 1994-1995 academic year will continue to participate in subsequent years and will not be required to re-apply in subsequent years.

The Secretary will publish rules regarding the administration and operation of the FDSLP for the 1994-1995 academic year in the **Federal Register** shortly. The Secretary anticipates that these rules will be based on the final regulations for the direct loan demonstration program published in the **Federal Register** on July 2, 1993 (58 FR 36088), revised to reflect changes from the Student Loan Reform Act of 1993 and administrative initiatives. These rules will be published after consultation with members of the higher education community. Schools that are selected to participate in the FDSLP but wish to withdraw after publication of the rules will be allowed a reasonable period to do so.

I. School Selection

The Secretary will exercise the discretion afforded him in the statute in selecting schools for participation in the FDSLP during the 1994-1995 academic year to ensure as smooth an implementation as possible and to provide a solid base of experience for the increase in FDSLP volume. The Secretary will select, to the extent practicable, schools to participate in the FDSLP that reasonably represent the universe of participants in the Federal Family Education Loan (FFEL) Program, along with such factors as type and control of institution, geographic distribution, loan volume, default rates, composition of student body, etc. A broad spectrum of schools participating in the first year of the program will also provide the robust test of the FDSLP operations and procedures that is necessary for the second and subsequent years when the volume of loans made under the FDSLP will increase significantly.

A. Requirements for Participation

The Secretary has decided that, to participate in the FDSLP in the 1994-1995 academic year, a school must have a program participation agreement under the FFEL Program. In addition, because a school in the FDSLP must be an eligible institution according to section 435(a) of the HEA and is thus subject to certain provisions relating to cohort default rates, the Secretary has decided that in order for a school to be selected to participate in the FDSLP in the 1994-1995 academic year, that school must have a cohort default rate that is less than 25 percent in one of the two most recent years for which cohort default rates are available. See section 453(d) of the HEA. Because participation is limited, the Secretary believes that it is not in the best interest of the FDSLP to allow a school to participate if there is a high probability that the school will lose its eligibility to participate in the Federal student loan programs. The Secretary reserves his right to exempt Historically Black Colleges and Universities as defined in section 322(2) of the HEA, tribally controlled community colleges within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978, or a Navajo Community College under the Navajo Community College Act from the default rate requirement.

B. Other Factors Considered by the Secretary

The Secretary anticipates choosing schools that have demonstrated a strong commitment to direct lending and the capacity to implement and administer the FDSLP. The Secretary will base his decision on whether a school has this capacity on a number of factors such as those given as criteria for a school to originate loans. The Secretary views the FDSLP as the future of student loans. As such, the Secretary intends to make maximum use of available technology in the program. Consistent with this intention, the Secretary anticipates that the majority of schools participating will participate electronically or be willing and capable to do so in the very near future. In order to originate loans a school must participate electronically. Currently, schools participating in the campus-based programs, which include the Federal Perkins Loan Program, the Federal Supplemental Educational Opportunity Grants Program, and the Federal Work-Study Program, must do so electronically. Additionally, the majority of schools participating in the Federal Pell Grant Program also do so electronically. Therefore, the Secretary will give strong consideration to a school that is currently participating in the Department's Electronic Data Exchange program when selecting schools to participate in the FDSLP.

II. School Participation

A. Participation in the FFEL Program and the FDSLP

Generally, a school participating in the FDSLP will make loans (not including loans made under the Federal Perkins Loan Program) to students and parents of students attending that school only through the FDSLP. However, the Secretary has the discretion to allow schools to participate in both the FFEL

Program and the FDSLP. Schools permitted to participate in both programs may certify loans under the FFEL Program only to those borrowers that have an outstanding balance on an FFEL Program loan. Students who have no outstanding balance on an FFEL Program loan may receive loans only under the FDSLP. The Secretary anticipates that the percentage of schools in the FDSLP that also participate in the FFEL Program will be small. A school permitted to participate in both the FFEL Program and the FDSLP would be responsible for ensuring that a borrower at that school does not receive loans under a program for which the borrower is not eligible.

B. Federal Direct PLUS Loans

Some schools have expressed concern that they would be required to conduct the credit check mandated for Federal Direct PLUS loans. Schools will not be responsible for conducting credit checks. Federal Direct PLUS loans will be made through a process similar to the one used in the FFEL Program. The parent will complete a combined application/promissory note and send it to the school. The school will forward this document to the Secretary where the data will be key entered and a credit check performed. Alternatively, a school will enter the data using the software provided by the Secretary, and electronically forward this information to the Secretary. In either case, the Secretary will perform the credit check and notify the school of the results. The Secretary will also notify the parent directly if the credit check indicates an adverse credit history, and advise the parent what options are available, *e.g.*, obtaining an endorser without an adverse credit history. Once the loan is approved, the school may then draw down money and disburse the loan funds in the same manner as it would for other loans made under the FDSLP. For those schools which participate in both the FDSLP and the FFEL Program, a parent of an eligible student may borrow only under the program from which the student borrowed, or would have borrowed, if the student had received a student loan.

C. Origination

The Student Loan Reform Act of 1993 requires that a school originating loans in the FDSLP in the 1994–1995 academic year:

(1) Have signed a participation agreement with the Secretary for participation in the FDSLP;

(2) Desire to originate loans;

(3) Have made loans in the Federal Perkins Loan Program and not have exceeded the applicable maximum default rate under section 462(g) of the HEA for the most recent fiscal year for which data are available;

(4) Not be on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of title IV of the HEA;

(5) Not be overdue on program or financial reports or audits required under title IV of the HEA;

(6) Not be subject to a proposed or final emergency action, or a proposed or final limitation, suspension, or termination action under section 428(b)(1)(T), 432(h), or 487(c) of the HEA;

(7) Not, in the opinion of the Secretary, have significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of title IV of the HEA;

(8) Not, in the opinion of the Secretary, have had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application; and

(9) Provide an assurance that the institution has no delinquent outstanding debts to the Federal Government, unless (a) those debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government; or (b) the Secretary determines that the existence or amount of the debts has not been finally determined by the cognizant Federal agency.

See Section 453(c) of the HEA.

D. Alternate Originator

If a school that participates in the FDSLP does not originate loans, it will use the services of an alternate originator that has contracted with the Secretary for that purpose. An alternate originator in the FDSLP will perform the functions that are necessary in the FDSLP that in the FFEL Program are performed by guaranty agencies and lenders.

E. Consortia

A consortium of schools in the FDSLP would interact with the Secretary in the same manner as other schools, except that the communication between the Secretary and the schools in the consortia is consolidated and channeled through a single point. Each school in a consortium will be required to sign the FDSLP participation agreement with the Secretary and be responsible for the information supplied through the consortium. If a consortium wishes to originate loans, each school in the consortium must be eligible to originate.

Application Procedures

The Secretary has developed an application for a school to use to apply to participate in the FDSLP. A copy of the application is included as Appendix A with this notice. A place is provided for an applying school to indicate whether it desires to originate loans under the FDSLP. In addition, an applying school must indicate how it anticipates participating in the FDSLP, (*i.e.*, mainframe, PC, or paper).

If a school desires to participate in both the FFEL Program and FDSLP, it must include an estimate of the percentage of new loan volume that will be made under the FDSLP. In addition, such a school must provide a written statement that explains why the school wishes to participate in both the FFEL Program and the FDSLP and how the school anticipates managing the FFEL Program and the FDSLP simultaneously.

If a school is applying as part of a consortium, it must indicate the exact names of all schools in the consortium.

In order to be considered for participation in the 1994–1995 academic year, a school must complete the application and submit it to the Secretary by October 1, 1993. Applications postmarked after October 1, 1993 will not be accepted. A school may fax its application to the Secretary at (202) 401–3424 or (202) 205–0786. If a school does fax its application, it must do so not later than October 1, 1993.

Waiver of Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the Omnibus Budget Reconciliation Act of 1993, enacted August 10, 1993 (Reconciliation Act), requires that the Secretary publish a notice in lieu of regulations for the first year of the FDSLP and exempts the contents of the notice from the rulemaking requirements of section 431 of the General Education Provisions Act. The Reconciliation Act also requires that the Secretary establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the program. While the Secretary has consulted with members of the higher education community in the development of this notice, the statutory timeframe for the program does not permit the solicitation of further public comment. Therefore, the Secretary finds that such a solicitation would be

impracticable and contrary to the public interest under 5 U.S.C. 553(b)(B).

(Catalog of Federal Domestic Assistance Number has not been assigned)

Dated: September 8, 1993.

Richard W. Riley,

Secretary of Education.

BILLING CODE 4000-01-P

Appendix

Form Approved - 9/8/93
O.M.B. No. 1840 - 0664
Expiration Date: 12/7/93

FEDERAL DIRECT STUDENT LOAN PROGRAM SCHOOL PARTICIPATION APPLICATION

Section I: School Information

School Name: _____

School Address: _____

_____

_____

Signature of School Official: _____

Printed Name and Title: _____

Telephone and FAX Number of School Official: _____ Telephone | FAX

IRS Employer Identification Number: _____

School Code Used in the Federal Family Education Loan Program: _____

Section II: Participation Information

Do you wish to originate loans? ❑ ***Yes*** ❑ ***No***

Mode of participation: ❑ ***Mainframe*** ❑ ***PC*** ❑ ***Paper***

Would you like to participate in both the FDSLP and the FFEL Program? ❑ ***Yes*** ❑ ***No***

If yes, what percentage of estimated loan volume would be made under the FDSLP? _____%

Attach a separate sheet explaining why the school wishes to participate in both the FFEL Program and the FDSLP, and how the school anticipates managing the FFEL Program and the FDSLP simultaneously.

Section III: School Consortium Information

If applying as part of a consortium, please indicate the exact names of all schools in the consortium ***(Attach additional names on a separate sheet, if necessary)***:

Public reporting burden for this collection of information is estimated to average 12 minutes per response, the estimated burden to complete the statement is 20 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project, 1840-0664, Washington, DC 20503.

Applications should be sent to:

U.S. Department of Education
Office of Postsecondary Education, ROB - 3
Federal Direct Loan Task Force, Room 4043
400 Maryland Avenue, SW
Washington, DC 20202-5162
FAX (202) 401-3424 or (202) 205-0786

[FR Doc. 93–22288 Filed 9–9–93; 8:45 am]
BILLING CODE 4000–01–C

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. The approval has been requested from the Office of Management and Budget (OMB).

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Cary Green, Department of Education, 7th & D Streets SW., room 4682, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: September 7, 1993.

Cary Green

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Emergency.

Title: Federal Direct Student Loan Program School Participation Application.

Abstract: In compliance with the Omnibus Budget Reconciliation Act of 1993, enacted August 10, 1993, ED is requesting application information from institutions of higher education that are interested in participating in the Federal Direct Student Loan Program. ED is requesting application information as prescribed in a notice and application that will be published in the **Federal Register**. ED will review the application requirements and select institutions to participate in the first year of this program.

Additional Information: ED has requested an emergency review and approval from the Office of Management and Budget. The emergency review and approval is required in order to satisfy the requirements of the Onmibus Budget Reconciliation Act of 1993.

Frequency: Annually.

Affected Public: Businesses or other for-profit; and non-profit institutions.

Reporting Burden:

Responses: 750.

Burden Hours: 398

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0

[FR Doc. 93–22289 Filed 9–9–93; 8:45 am]

BILLING CODE 4000–01–M

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Federal Register

Vol. 58, No. 174

Friday, September 10, 1993

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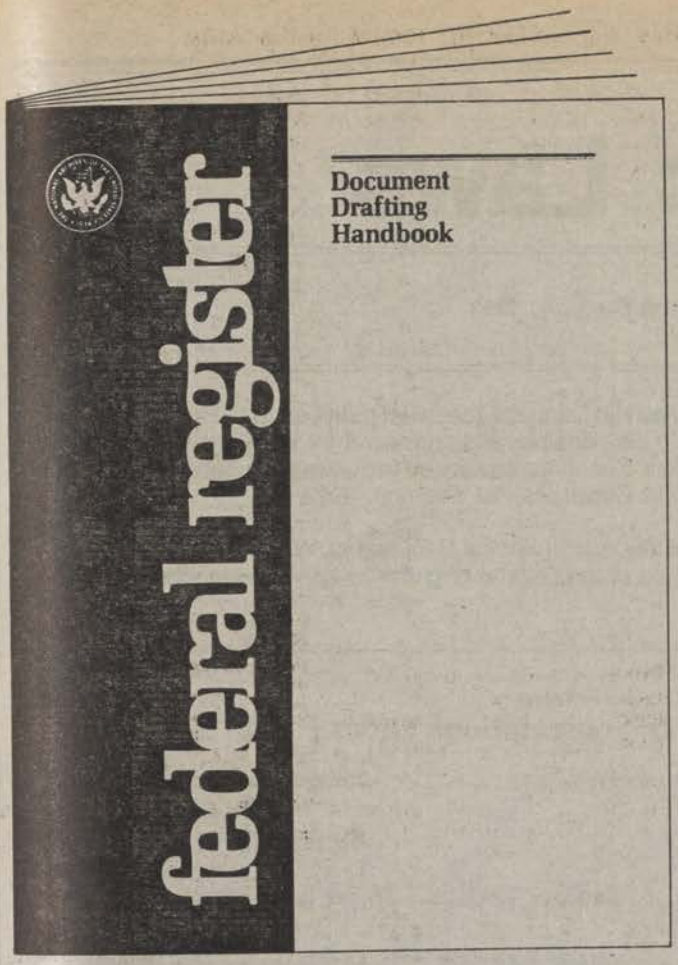

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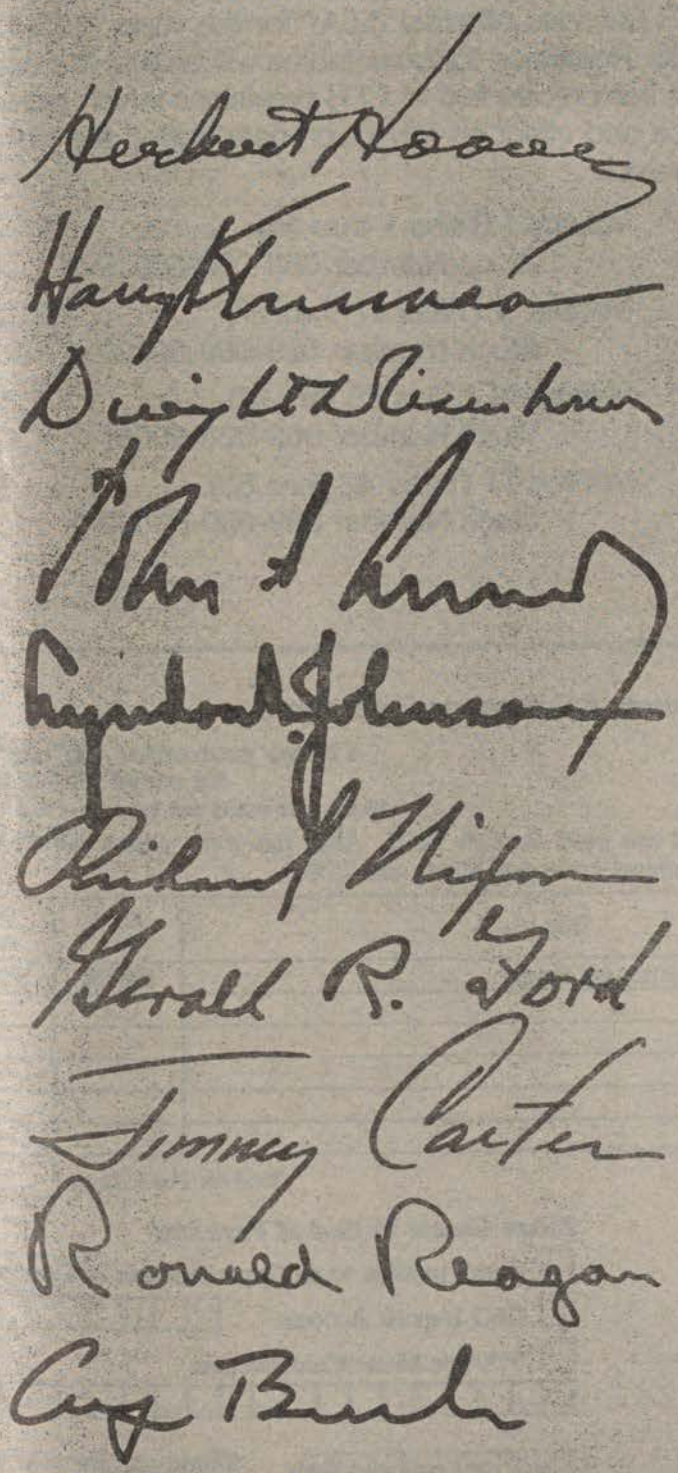

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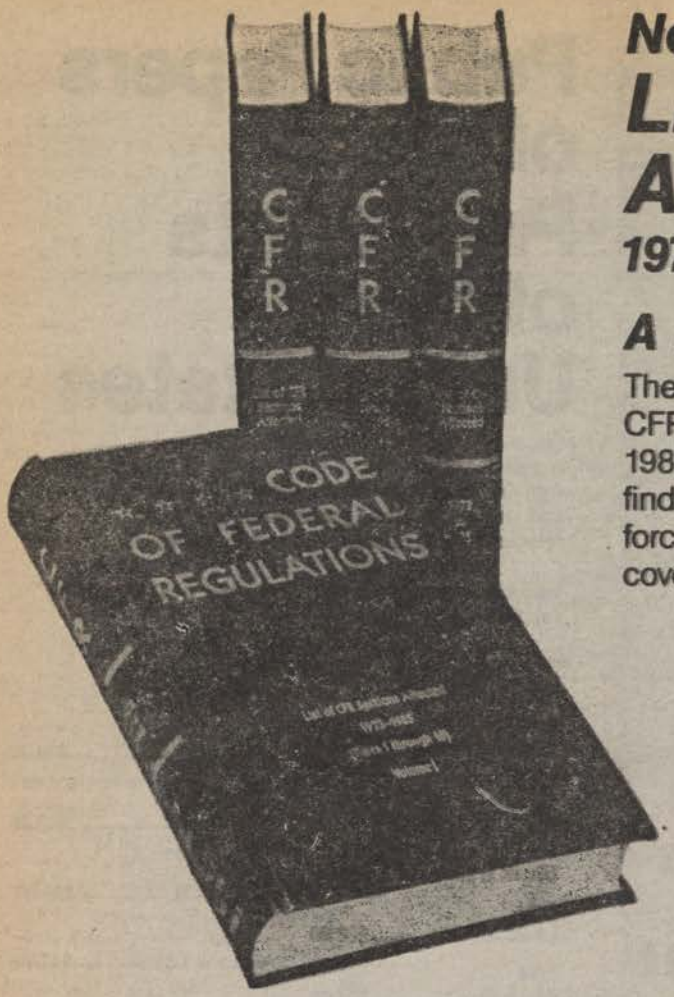

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