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Monday
April 17, 1995

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Presidential Documents

Title 3—

The President

Memorandum of April 4, 1995

Delegation of Authority Under Section 106 of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447)

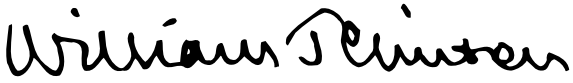
Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions conferred upon the President by section 106 of the International Narcotics Control Corrections Act of 1994 (the ''Act'') (Public Law 103–447) with respect to funds made available from any source.

The functions delegated by this memorandum may be redelegated to the extent permitted by law.

This delegation of authority shall also apply to any amendments or successor legislation concerning the subject matter of this section.

You are authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, April 4, 1995.

[FR Doc. 95–9553
Filed 4–13–95; 3:23 pm]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 60, No. 73
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–41–AD; Amendment 39–9196; AD 95–08–07]

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A310 series airplanes. This action requires measurement of the force required to move the interior control handle of the emergency exit doors, and various follow-on corrective actions, if necessary. This amendment is prompted by a report that, during routine maintenance, excessive force was required to lift the interior control handle of the emergency exit door. The actions specified in this AD are intended to prevent impeding passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door.

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A310 series airplanes. The DGAC advises that one operator found, during routine maintenance, that an excessive amount of force was required to lift the interior control handle, which opens the left-hand emergency exit door. Investigation revealed that the seizure of two Teflon-coated bearings on the lower shaft of the mechanism inside that door caused the control handle of that emergency exit door to be difficult to lift. This condition, if not corrected, could impede passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door.

Airbus has issued All Operators Telex (AOT) 52 08, Revision 1, dated December 1, 1994, which describes procedures for measurement of the force required to move the interior control handle of the emergency exit doors, a one-time functional test of the emergency exit doors to measure the amount of force required to open the doors. Additionally, for doors on which the force required to open the door exceeds a certain limit, this AOT describes procedures for a visual inspection to detect discrepancies of the mechanism inside the door, and replacement of bearings, if necessary. The French DGAC classified this AOT as mandatory and issued French airworthiness directive 94–270–172(B), dated December 7, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the French DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent impeding passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door. This AD requires measurement of the force required to move the interior control handle of the emergency exit door. Additionally this AD contains several ''on condition'' requirements, including a one-time functional test of the emergency exit doors to measure the amount of force required to open the door, a visual inspection to detect discrepancies of the mechanism inside each emergency exit door, and replacement of the bearings on the lower shaft of the mechanism inside the door. The actions are required to be accomplished in accordance with the AOT described previously.

This AD also requires that certain discrepancies found be repaired in accordance with a method approved by the FAA. Additionally, this AD requires that operators submit a report of the findings of discrepancies to Airbus Industrie.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA

points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–41–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

95–08–07 Airbus Industrie: Amendment 39–9196. Docket 95–NM–41–AD.

Applicability: All Model A310 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent impeding evacuation during an emergency due to seized bearings on the lower shaft of the mechanism inside the emergency exit door, which would make the door control handle difficult to lift, accomplish the following:

(a) Within 60 days after the effective date of this AD, measure the amount of force required to move the interior control handle of the emergency exit doors to, in accordance with Airbus All Operators Telex (AOT) 52 08, Revision 1, dated December 1, 1994.

(b) If the force required to move the interior control handle of the door is equal to or does not exceed 20 daN (45 foot-pounds), no further action is required by this paragraph for that door.

(c) If the force required to move the interior control handle of the door exceeds 20 daN (45 foot-pounds), prior to further flight, perform a full functional test of the emergency exit doors to measure the amount of force required to open the doors, in accordance with the AOT.

(1) If the force required to open the door is equal to or does not exceed 20 daN (45 foot-pounds), no further action is required by this paragraph for that door.

(2) If the force required to open the door exceeds 20 daN (45 foot-pounds), prior to further flight, perform a visual inspection to detect discrepancies of the mechanism inside the door, in accordance with the AOT.

(i) If no discrepancy is found, prior to further flight, replace seized bearings with new or serviceable bearings, in accordance with the AOT.

(ii) If any discrepancy is found, prior to further flight, repair the discrepancy in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the findings of discrepancies to the Airbus Industrie, Engineering Services, Attention: Mr. R. Filaquier, AI/SE E121, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through

an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued for non-revenue bearing flights in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The measurements, functional test, inspections, and replacement shall be done in accordance with Airbus All Operators Telex 52 08, Revision 1, dated December 1, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8822 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–46–AD; Amendment 39–9197; AD 95–08–08]

Airworthiness Directives; Boeing Model 737–200 and –200C Airplanes Equipped With dB Partners Hush Kits Installed in Accordance With Supplemental Type Certificate (STC) SA5730NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200 and –200C airplanes. This action requires installation of fail-safe straps onto the existing engine inlet attach ring of the nose cowl. This amendment is prompted by reports of failure of reworked turbine blades, and subsequent failure of the engine inlet attach ring. The actions specified in this AD are intended to prevent separation of the nose cowl from the engine following turbine failure.

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, the FAA has received reports of failure of reworked turbine blades on certain Boeing Model 737–200 and –200C airplanes. Investigation revealed that dB Partners had installed hush kits on these airplanes in accordance with Supplemental Type Certificate (STC) SA5730NM. As part of that installation, a re-spaced inlet guide vane (RIGV), which is five inches longer than the original Boeing inlet, was installed in accordance with the STC. As a result of a turbine blade failure, this longer RIGV, which is attached to the engine by an attach ring, could separate from the airplane during flight. This condition, if not corrected, could result in damage to other airplane structure or injury to persons or property on the ground.

The FAA has reviewed and approved Nordam Service Bulletin SB 71–03, dated March 17, 1995, which describes procedures for installation of eight fail-safe straps onto the existing attach rings of the nose cowl.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent separation of the nose cowl from the engine following turbine failure. This AD requires installation of fail-safe straps onto the existing attach ring. The actions are required to be accomplished in accordance with the service bulletin described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

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

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–46–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

95–08–08 Boeing: Amendment 39–9197. Docket 95–NM–46–AD.

Applicability: Model 737–200 and –200C airplanes equipped with dB Partners Hush Kit installed in accordance with Supplemental Type Certificate (STC) SA5730NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the nose cowl from the engine following turbine blade failure, accomplish the following:

(a) Within 30 days after the effective date of this AD, install fail-safe straps onto the existing attach ring, in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995.

(b) As of the effective date of this AD, fail-safe straps must be installed onto the existing attach ring of the nose cowl, in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, prior to installation of STC SA5730NM on any airplane.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The installation shall be done in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8823 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–44–AD; Amendment 39–9198; AD 95–08–09]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires modification of the support structure of the cargo liner. This amendment is prompted by a report of chafing and arcing in the vacuum waste exhaust heater that caused a spark to ignite the surrounding insulation blankets. The actions specified in this AD are intended to prevent fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater.

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This

information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5347; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, an operator of McDonnell Douglas Model MD–11 series airplanes reported that chafing and arcing in the vacuum waste exhaust heater caused a spark to ignite the surrounding insulation blankets. Investigation revealed that the cutout in the baffle for the vacuum waste exhaust duct rubbed against the heater tape, which caused the heater tape to chafe. (Split heater cuffs were installed on the vacuum waste exhaust ducts of these airplanes in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992.) This condition, if not corrected, could result in undetected fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, which describes procedures for modification of the support structure of the cargo liner. This modification entails removing the baffle assemblies and trimming the insulation blankets surrounding the vacuum waste exhaust duct, which will reduce chafing and minimize the possibility of igniting the insulation blanket.

The alert service bulletin includes two groups of airplanes in its effectivity listing: Airplanes identified as ''Group 1'' are equipped with split heater cuffs that were installed, after delivery, on the vacuum waste exhaust ducts of the heaters of these airplanes in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992. Airplanes identified as ''Group 2'' are those on which the manufacturer accomplished a similar modification prior to delivery.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fire and/or smoke due to chafing and arcing of the heater. This AD requires modification of the support structure of the cargo liner of airplanes identified in the alert service bulletin as Group 1 airplanes. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Although all of the airplanes identified in the effectivity listing of the referenced alert service bulletin have had split heater cuffs installed on the vacuum waste exhaust ducts, those identified as Group 1 airplanes differ significantly from those identified as Group 2 airplanes: Group 1 airplanes have had split heater cuffs installed on the vacuum waste exhaust ducts, in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992; that service bulletin did not adequately specify the minimum distance between the baffle assemblies and the vacuum waste exhaust duct. Group 2 airplanes have had split heater cuffs installed during production using production drawings that adequately specified the minimum distance between the baffle assemblies and the vacuum waste exhaust duct. Consequently, because of the configuration of this installation, the FAA finds that the potential for chafing and arcing to occur on Group 1 airplanes is much greater. Further, a review of service history indicates that no incidents of chafing and arcing have occurred on Group 2 airplanes.

In light of this, the FAA has determined that airplanes identified in the alert service bulletin as Group 2 airplanes are not subject to the unsafe condition. Accordingly, Group 2 airplanes have been excluded from the requirements of this AD.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–44–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined

further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

95–08–09 McDonnell Douglas: Amendment 39–9198. Docket 95–NM–44–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, and identified as ''Group 1 airplanes,'' on which split heater cuffs have been installed on the waste exhaust ducts of heaters in accordance with McDonnell Douglas MD–11 Service Bulletin 38–15, dated October 23, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire and/or smoke due to chafing and arcing of the heater, accomplish the following:

(a) Within 30 days after the effective date of this AD, modify the support structure of the cargo liner, in accordance with McDonnell Douglas MD–11 Alert Service Bulletin MD11–38A044, dated March 22, 1995.

(b) As of the effective date of this AD, the support structure of the cargo liner on any airplane must be modified in accordance with McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22 1995, prior to installing a vacuum waste exhaust port heater, P/N 62–5745, in accordance with McDonnell Douglas MD–11 Service Bulletin 38–15, dated October 23, 1992.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8826 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 97

[Docket No. 28181; Amdt. No. 1658]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT:

Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standard Service, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552a(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may required making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, the good cause exists for making some SIAPs effective in less than 30 days.

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 ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 7, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 20, 1995*

Madisonville, KY, Madisonville Muni, VOR or GPS RWY 23, Amdt 13
Madisonville, KY, Madisonville Muni, VOR/DME RNAV RWY 23, Amdt 4

** * * Effective May 25, 1995*

Marysville, CA, Yuba County, VOR RWY 14, Amdt 9
Marysville, CA, Yuba County, VOR or GPS RWY 32, Amdt. 10
Marysville, CA, Yuba County, NDB or GPS RWY 14, Amdt 3
Marysville, CA, Yuba County, ILS RWY 14, Amdt 4
Denver, CO, Denver International, ILS RWY 7, Amdt 1
Denver, CO, Denver International, ILS RWY 8, Amdt 1
Denver, CO, Denver International, ILS RWY 16, Amdt 1
Denver, CO, Denver International, ILS RWY 17L, Amdt 1
Denver, CO, Denver International, ILS RWY 17R, Amdt 1
Denver, CO, Denver International, ILS RWY 25, Amdt 1
Denver, CO, Denver International, ILS RWY 26, Amdt 1
Denver, CO, Denver International, ILS/DME RWY 34, Amdt 1
Denver, CO, Denver International, ILS RWY 35L, Amdt 1
Denver, CO, Denver International, ILS/DME RWY 35R, Amdt 1
Denver, CO, Front Range, NDB or GPS RWY 26, Amdt 3
Denver, CO, Front Range, ILS RWY 26, Amdt 3
Denver, CO, Jeffco, VOR/DME RWY 29R, Orig, CANCELLED
Denver, CO, Jeffco, RNAV RWY 29R, Amdt 9, CANCELLED
Denver, CO, Stapleton Intl, LOC RWY 18, Amdt 5, CANCELLED
Denver, CO, Stapleton Intl, NDB RWY 26L, Amdt 39, CANCELLED
Denver, CO, Stapleton Intl, NDB RWY 26R, Amdt 9, CANCELLED
Denver, CO, Stapleton Intl, ILS/DME–1 RWY 8R, Amdt 6, CANCELLED
Denver, CO, Stapleton Intl, CONVERGING ILS/DME–2 RWY 8R, Amdt 3, CANCELLED
Denver, CO, Stapleton Intl, ILS/DME–1 RWY 17L, Amdt 7, CANCELLED
Denver, CO, Stapleton Intl, CONVERGING ILS/DME–2 RWY 17L, Amdt 3, CANCELLED
Denver, CO, Stapleton Intl, ILS RWY 26L, Amdt 47A, CANCELLED
Denver, CO, Stapleton Intl, ILS RWY 35L, Amdt 29, CANCELLED
Denver, CO, Stapleton Intl, ILS RWY 35R, Amdt 13, CANCELLED
Denver, CO, Stapleton Intl, ILS RWY 36, Amdt 4, CANCELLED
Erie, CO, Tri-County, VOR/DME–A, Amdt 2, CANCELLED
Ankeny, IA, Ankeny Regional, NDB–A, Orig
Eagle Grove, IA, Eagle Grove Muni, VOR/DME or GPS–A, Amdt 1
Eagle Grove, IA, Eagle Grove Muni, NDB or GPS RWY 13, Amdt 1
Hampton, IA, Hampton Muni, VOR/DME or GPS RWY 35, Amdt 1
Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4
Iowa Falls, IA, Iowa Falls Muni, NDB or GPS RWY 31, Amdt 4

Sac City, IA, Sac City Muni, NDB or GPS RWY 36, Amdt 3
Coeur D'Alene ID, Coeur D'Alene Air Terminal, ILS RWY 5, Amdt 4
Eureka, KS, Eureka Muni, VOR/DME or GPS RWY 18, Amdt 2
Frankfort, KY, Capital City, VOR RWY 6, Amdt 1, CANCELLED
Frankfort, KY, Capital City, VOR or GPS RWY 24, Amdt 2
Frankfort, KY, Capital City, LOC/DME RWY 24, Orig
Frankfort, KY, Capital City, RADAR–1, Orig, CANCELLED
Murray, KY, Kyle-Oakley Field, NDB RWY 23, Orig
Murray, KY, Kyle-Oakley Field, NDB or GPS RWY 23, Amdt 6, CANCELLED
Murray, KY, Kyle-Oakley Field, LOC Rwy 23, Orig
Ocean City, NJ, Ocean City Muni, VOR–A, Orig
Hatteras, NC, Billy Mitchell, NDB or GPS RWY 6, Amdt 6, CANCELLED
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, NDB RWY 9, Amdt 13
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 9, Amdt 15

* * * *Effective April 27, 1995*

Little Rock, AR, Adams Field, ILS RWY 4R, Orig
Latrobe, PA, Westmoreland County, ILS RWY 23, Amdt 14

* * * *Effective Upon Publication*

New York, NY, La Guardia, Copter ILS RWY 24, Amdt 1
New York, NY, La Guardia, Copter ILS/DME RWY 22, Amdt 1
Waco, TX, Waco Regional, Radar-1, Amdt 3.

[FR Doc. 95–9400 Filed 4–14–95; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28182; Amdt. No. 1659]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 7, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/09/95	MO	Perryville	Perryville Muni	FDC 5/1332	VOR/DME RNAV or GPS RWY 19, AMDT 2...
03/23/95	TX	Lago Vista	Rusty Allen	FDC 5/1281	VOR/DME or GPS–A AMDT 2...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1282	ILS RWY 34, AMDT 2...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1283	NDB RWY 34, ORIG...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1285	VOR or GPS RWY 16, AMDT 6...
03/30/95	CA	San Francisco	San Francisco Intl	FDC 5/1390	BAY ILS/DME RWY 28L AMDT 1...
03/30/95	FL	Fort Lauderdale	Fort Lauderdale Executive	FDC 5/1349	VOR/DME RNAV or GPS RWY 8, AMDT 3...
03/30/95	KS	Meade	Meade Municipal	FDC 5/1389	NDB RWY 17, AMDT 1...
03/30/95	MN	Hawley	Hawley Muni	FDC 5/1382	VOR/DME or GPS–A ORIG...
03/30/95	NM	Deming	Deming Muni	FDC 5/1386	VOR or GPS RWY 26 AMDT 8A...
03/30/95	NM	Truth or Consequences Muni.	Truth or Consequences	FDC 5/1385	VOR or GPS–A AMDT 9...
03/30/95	WY	Gillette	Gillette-Campbell County	FDC 5/1388	VOR/DME or GPS RWY 34, ORIG...

[FR Doc. 95–9401 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AD79

Federal Old-Age, Survivors and Disability Insurance; Changes in Evidence Required To Presume a Person Is Dead

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: These regulations provide that, under title II of the Social Security Act (the Act), a presumption of death arises when the claimant establishes that an individual has been absent from his or her residence and not heard from for 7 years. Once the presumption is made, the burden then shifts to us to rebut the presumption either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

EFFECTIVE DATE: These rules are effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 640l Security Boulevard, Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION: Under title II of the Act, a lump sum death payment and monthly survivors' benefits may be payable based on the earnings of a deceased insured person. In order to ensure that these benefits are not paid based on mere desertion, any inquiry into entitlement begins with an assumption that a person last known to be alive is still living, and that a person's failure to communicate with a few people and to return to a particular place do not, in themselves, give rise to a presumption of death. To establish eligibility for such benefits, the claimant must establish that the insured person is dead. If proof of death (as described in §§ 404.720(b) and (c)) is unavailable, we will presume an insured person is dead if certain evidence is presented. Under the present § 404.721(b), such evidence includes signed statements by those in a position to know and other records which show that the person has been absent from his or her residence *for no apparent reason*, and has not been heard from for at least 7 years.

This evidentiary requirement has yielded two very different interpretations. It has long been our policy that the claimant must present the evidence necessary to establish that he or she is entitled to benefits. Accordingly, for us to presume that an insured person is dead, the claimant must establish that the insured person not only has not been heard from for at least 7 years, but also that he or she has been absent from his or her residence for no apparent reason. If the insured person's absence can be attributed to known domestic or financial difficulties or to some other rational reason for leaving home, death is not presumed. We are not required to establish that the

insured person is still alive to explain the person's absence.

In contrast to our interpretation, a number of United States Courts of Appeals have issued decisions which have presumed the death of a missing person despite the existence of other reasonable explanations for the person's absence. These court decisions have held that a presumption of death arises under our regulations when the claimant shows that a person has been absent from his or her residence and not heard from for 7 years. Once the claimant has made this showing, these decisions state that the Secretary bears the burden of rebutting the presumption of death either by presenting evidence showing that the missing person is alive or by providing an explanation to account for the individual's absence in a manner that is consistent with continued life. As a result of these court decisions, we published Social Security Acquiescence Rulings applicable in the Third, Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits which adopt this interpretation of § 404.721.

We published a Notice of Proposed Rulemaking (NPRM) on February 29, 1984, (49 FR 7405–7406), containing proposed revisions of § 404.721 which we hoped would clarify the regulation to avoid the varying interpretations of the regulation made by the courts. Under the previously proposed regulation, we would presume the death of the insured person if signed statements by persons, who were in a position to know, and other evidence showed that all three of the following requirements were met:

(1) The insured person has not had contact of any kind with any relatives, dependents, employers, or friends for at least 7 years.

(2) A diligent search was conducted with the aid of the appropriate authorities reasonably soon after the insured person's disappearance, but the search failed to locate or explain the absence of the insured person.

(3) Circumstances surrounding the insured person's disappearance allow no reasonable explanation of that person's absence other than death.

After much deliberation, we have decided that we will not adopt the rule published in the 1984 NPRM. These final regulations withdraw the NPRM published at 49 FR 7405–7406 on February 29, 1984.

In light of the Social Security Acquiescence Rulings, we are now administering two different standards with respect to presumption of death for entitlement purposes. One standard is based on our historical interpretation of the regulation; the other on the Social Security Acquiescence Rulings issued for the seven different circuits as the result of appellate court decisions. We have reevaluated our policies and are revising the existing regulation to establish a national policy based on the interpretation set forth by the courts.

Also, we are revising the regulations to include a new section which contains information on evidence which will rebut a presumption of death. Previously, our regulations did not provide guidance on what constitutes evidence to rebut a presumption of death.

These regulations provide that the presumption of death arises when the claimant establishes an individual has been absent from his or her residence and not heard from for 7 years. Once the presumption is made, the burden then shifts to us to rebut the presumption either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

We are removing reference to establishing no apparent reason for the absence from § 404.721(b). We are providing rules concerning the rebuttal of a presumption of death in § 404.722, a new section to the regulations. This section provides that a presumption of death made based on § 404.721(b) will be rebutted if there is evidence available that the person is still alive or the absence can be explained in a manner consistent with continued life rather than death. We are also making a conforming change to § 404.988 (conditions for reopening) to reflect the change in § 404.721(b).

We will rescind the following Social Security Acquiescence Rulings by publishing a notice in the **Federal Register**: AR 86–6(3); AR 86–7(5); AR 86–8(6); AR 86–9(9); AR 86–10(10); AR–86–11(11); and AR 93–6(8).

These regulations were published in the **Federal Register** (59 FR 37002) as an NPRM on July 20, 1994. Interested parties were given 60 days to submit comments. We received no comments and are adopting the regulations as proposed.

Regulatory Procedures

Executive Order No. 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules will only affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security—Disability Insurance; 93.803, Social Security—Retirement Insurance; and 93.805, Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Aged, Blind, Death benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: February 27, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subparts H and J of part 404 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart H of part 404 continues to read as follows:

Authority: Secs. 205(a) and 1102 of the Social Security Act; 42 U.S.C. 405(a) and 1302.

2. Section 404.721 is amended by revising paragraph (b) to read as follows:

§ 404.721 Evidence to presume a person is dead.

* * * * *

(b) Signed statements by those in a position to know and other records which show that the person has been absent from his or her residence and has not been heard from for at least 7 years. If the presumption of death is not rebutted pursuant to § 404.722, we will use as the person's date of death either the date he or she left home, the date ending the 7 year period, or some other date depending upon what the evidence shows is the most likely date of death.

* * * * *

3. New § 404.722 is added to read as follows:

§ 404.722 Rebuttal of a presumption of death.

A presumption of death made based on § 404.721(b) can be rebutted by evidence that establishes that the person is still alive or explains the individual's absence in a manner consistent with continued life rather than death.

Example 1: Evidence in a claim for surviving child's benefits showed that the worker had wages posted to his earnings record in the year following the disappearance. It was established that the wages belonged to the worker and were for work done after his ''disappearance.'' In this situation, the presumption of death is rebutted by evidence (wages belonging to the worker) that the person is still alive after the disappearance.

Example 2: Evidence shows that the worker left the family home shortly after a woman, whom he had been seeing, also disappeared, and that the worker phoned his wife several days after the disappearance to state he intended to begin a new life in California. In this situation the presumption of death is rebutted because the evidence explains the worker's absence in a manner consistent with continued life.

4. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421(d), and 1302.

5. Paragraph (c)(4) introductory text and (c)(4)(i) of § 404.988 are revised to read as follows:

§ 404.988 Conditions for reopening.

* * * * *

(c) * * *

(4) Your claim was denied because you did not prove that a person died, and the death is later established—

(i) By a presumption of death under § 404.721(b); or

* * * * *

[FR Doc. 95–9029 Filed 4–14–95; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 302

[SWH–FRL–5191–5]

RIN 2050–AD59

Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is correcting minor errors in the amendments to the regulations which appeared in the **Federal Register** on February 9, 1995 (60 FR 7824).

EFFECTIVE DATES: April 17, 1995.

FOR FURTHER INFORMATION CONTACT: John Austin, (202) 260–4789.

SUPPLEMENTARY INFORMATION: In the February 9, 1995 final rule, EPA designated a number of discarded commercial chemical products, off-specification species, container residues, and spill residues as hazardous wastes. EPA is correcting typographical and omission errors in the listing of these chemicals. EPA also designated a number of substances as hazardous constituents based upon scientific studies which demonstrate that the substance has toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. In the course of EPA's determinations, final action on twelve substances was deferred. The text of the amendments to part 261, appendix VIII inadvertently lists one of the substances for which final action was deferred and also lists in error a hazardous waste designation of U389 for this substance. The substance, bis(dibutylcarbamothioto)dioxo-dimolydenum sulfurized (Chemical Abstracts Number 68412–26–0), was proposed as U398 not U389. EPA is deleting this inadvertent entry.

The final rule also inadvertently does not include the Appendix A list of the additions to CERCLA Section 302.4 in numerical sequence of their CAS Registry numbers. The Agency is amending Appendix A to § 302.4 to reflect the additions to Section 304.4 that were finalized by the February 9, 1994 notice.

On page 7483, the February 9, 1995 final rule states in error the compliance dates for new facilities to submit a Part B application and for permitted facilities to certify that the facility is in compliance with groundwater and financial responsibility requirements. Under section 3005(e)(3), not later than August 9, 1996, land disposal facilities newly qualifying for interim status under section 3005(e)(1)(A)(ii) also must submit a Part B permit application and certify that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements. For newly regulated land disposal units, permitted facilities must certify that the facility is in compliance with all applicable 40 CFR 265 groundwater monitoring and financial responsibility requirements no later than August 9, 1996.

Dated: April 5, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, the publication on February 9, 1995 of the final regulations, which were the subject of FR Doc. 95–2983, is corrected as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE [CORRECTED]

1. On page 7850, the table for § 261.33(e) is corrected by deleting ''*1P198'' following the substance entry for ''Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino) carbonyl]oxy] phenyl]-, monohydrochloride'' in column 3 and designating the entry as Hazardous Waste No. ''P198'' in column one. The entries in columns one and two for the substance ''Mexacarbate'' are deleted and replaced by ''P128'' and ''315–8–4'' respectively.

2. On page 7851, the Chemical Abstract Number in column one of the table for § 261.33(f) is corrected to read ''121–44–8'' for the substance N,N-diethylethanamine, and on page 7852, ''122–42–9'' for Propham, and ''121–44–8'' for Triethylamine.

Appendix VIII to Part 261—[Corrected]

3. Appendix VIII to Part 261—Hazardous Constituents is corrected by deleting from each column the entries for ''Bis(dibutylcarbamothioato)dioxodi-molybdenum sulfurized'' on page 7853, and the Common name ''Physostigmine'' corresponding to ''P188'' is revised to read ''Physostigmine salicylate'' on page 7855.

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION [CORRECTED]

4. On page 7859, the last entry to § 302.4 is corrected by revising the Hazardous Waste Code from ''K160'' to ''K161''.

5. Section 302.4 is amended by adding the following entries in numerical order of the CAS Registry number to Appendix A to § 302.4 to read as follows.

APPENDIX A TO § 302.4.—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CASRN	Hazardous substance
*	* * * * * *
57476	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)- (Physostigmine).
57647	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1) (Physostigmine salicylate).
*	* * * * * *
64006	Phenol, 3-(1-methylethyl)-, methyl carbamate (m-Cumenyl methylcarbamate).
*	* * * * * *
95067	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester (Sulfallate).
*	* * * * * *
97745	Bis(dimethylthiocarbamoyl) sulfide (Tetramethylthiuram monosulfide).
97778	Thioperoxydicarbonic diamide, tetraethyl (Disulfiram).
*	* * * * * *
101279	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester (Barban).
*	* * * * * *
119380	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester (Isolan).
*	* * * * * *
120547	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis- (Bis(pentamethylene)thiuram tetrasulfide).
*	* * * * * *
122429	Carbamic acid, phenyl-, 1-methylethyl ester (Propham).
*	* * * * * *
128030	Carbamodithioic acid, dimethyl, potassium salt (Potassium dimethyldithiocarbamate).
128041	Carbamodithioic acid, dimethyl-, sodium salt (Sodium dimethyldithiocarbamate).
*	* * * * * *
136301	Carbamodithioic acid, dibutyl, sodium salt (Sodium dibutyldithiocarbamate).
*	* * * * * *
137291	Copper, bis(dimethylcarbamodithioato-S,S')- (Copper dimethyldithiocarbamate).
137304	Zinc, bis(dimethylcarbamodithioato-S,S')-, (Ziram).
137417	Carbamodithioic acid, methyl,- monopotassium salt (Potassium n-methyldithiocarbamate).
137428	Carbamodithioic acid, methyl-, monosodium salt (Metam Sodium).
*	* * * * * *
144343	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid (Selenium, tetrakis(dimethyldithiocarbamate)).
*	* * * * * *
533744	2H–7,13,5–Thiadiazine-2-thione, tetrahydro-3,5-dimethyl- (Dazomet).
*	* * * * * *
644644	Carbamic acid, dimethyl-,1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester (Dimetilan).
*	* * * * * *
759944	Carbamothioic acid, dipropyl-, S-ethyl ester (EPTC).
*	* * * * * *
1114712	Carbamothioic acid, butylethyl-, S-propyl ester (Pebulate).
*	* * * * * *
1129415	Carbamic acid, methyl-, 3-methylphenyl ester (Metolcarb).
1134232	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester (Cycloate).
*	* * * * * *
1563388	7–Benzofuranol, 2,3-dihydro-2,2-dimethyl- (Carbofuran phenol).
*	* * * * * *
1634022	Thioperoxydicarbonic diamide, tetrabutyl (Tetrabutylthiuram disulfide).
1646884	Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino)carbonyl] oxime (Aldicarb sulfone).

APPENDIX A TO § 302.4.—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
*	* * * * * *
1929777	Carbamothioic acid, dipropyl-, S-propyl ester (Vernolate).
2008415	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester (Butylate).
*	* * * * * *
2212671	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester (Molinate).
*	* * * * * *
2303175	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester (Triallate).
*	* * * * * *
2631370	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate (Promecarb).
*	* * * * * *
5952261	Ethanol, 2,2'-oxybis-, dicarbamate (Diethylene glycol, dicarbamate).
*	* * * * * *
10605217	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester (Carbendazim).
*	* * * * * *
14324551	Zinc, bis(diethylcarbamodithioato-S,S')- (Ethyl Ziram).
14484641	Iron, tris(dimethylcarbamodithioato-S,S')- (Ferbam).
*	* * * * * *
15339363	Manganese, bis(dimethylcarbamodithioato-S,S')- (Manganese dimethyldithiocarbamate).
*	* * * * * *
17702577	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-(Formparanate).
17804352	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl, methyl ester (Benomyl).
*	* * * * * *
22781233	1,3–Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate (Bendiocarb).
22961826	1,3–Benzodioxol-4-ol, 2,2-dimethyl-, (Bendiocarb phenol).
23135220	Ethanimidothioc acid, 2-(dimethylamino)-N-[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester (Oxamyl).
23422539	Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride (Formetanate hydrochloride).
23564058	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester (Thiophanate-methyl).
*	* * * * * *
26419738	1,3–Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)carbonyl]oxime (Tirpate).
*	* * * * * *
30558431	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester (A2213).
*	* * * * * *
51026289	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt (Potassium n-hydroxymethyl-n-methyldithiocarbamate).
*	* * * * * *
52888809	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester (Prosulfocarb).
*	* * * * * *
55285148	Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester (Carbosulfan).
*	* * * * * *
55406536	Carbamic acid, butyl-, 3-iodo-2-propynyl ester (3–Iodo-2-propynyl n-butylcarbamate).
*	* * * * * *
59669260	Ethanimidothioic acid, N,N'-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester (Thiodicarb).
*	* * * * * *

[FR Doc. 95–9247 Filed 4–14–95; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

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

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Part 1944

RIN 0575—AB43

Housing Preservation Grant Program

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing and Community Development Service (RHCDS), a successor Agency to the Farmers Home Administration (FmHA), proposes to amend its Housing Preservation Grant regulations. The intended effect is to allow replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowners only) existing housing are not economically feasible or practical. These revisions will bring the regulations into conformance with the Housing and Community Development Act of 1992 amending the Housing Preservation Grant program, Section 533 of the Housing Act of 1949.

DATES: Comments must be received on or before June 16, 1995.

ADDRESSES: Submit written comments to the office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development, Room 6348, South Agriculture Building, Washington, D.C. 20250. All comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris, Senior Loan Specialist, Special Authorities Branch, Multiple Housing Processing Division, RHCDS, USDA, Washington, D.C. 20250, Telephone (202) 720–1606 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purpose of Executive Order 12866 and therefore has not been reviewed by OMB.

The proposed regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR Part 1900 Subpart B must be exhausted prior to filing suit.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575–0115 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This proposed rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, ''Environmental Program.'' It is the determination of RHCDS that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, an environmental impact statement is not required.

Programs Affected

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.433, Housing Preservation Grants.

Intergovernmental Consultation

This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V, 48 FR 29115, June 24, 1983.)

Regulatory Flexibility Act

The Administrator has determined that the proposed action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements. The proposed action will only affect a small number of rural communities.

Background and Drafting Information

The proposed rule incorporates Title VII, Section 711 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, dated October 28, 1992) amending Section 533 of the Housing Act of 1949, 42 U.S.C. 1490m, allowing for replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowners only) existing housing is not economically feasible or practical. RHCDS is making no other significant changes other than allowing for replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowner) existing housing are not economically feasible or practical.

Lists of Subjects for 7 CFR Part 1944

Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Nonprofit organizations, Rural housing.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart N—Housing Preservation Grants

2. Section 1944.651 is amended by removing the words ''if such person has capacity to contract'' in paragraph (b) and by revising the last two sentences of paragraph (a) to read as follows:

§ 1944.651 General.

(a) * * * Such assistance will be used to reduce the cost of repair and rehabilitation, to remove or correct health or safety hazards, to comply with applicable development standards or codes, or to make needed repairs to improve the general living conditions of the resident(s), including improved accessibility by persons with handicaps. Individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement housing.

* * * * *

3. Section 1944.652 is revised to read as follows:

§ 1944.652 Policy.

(a) The policy of RHCDS is to provide HPG's to grantees to operate a program which finances repair and rehabilitation activities to individual housing, rental properties, or co-ops for very low- and low-income persons. Individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement housing. Grantees are expected to:

(1) Coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations and/or activities operating in the same geographic area; and

(2) Focus the program to rural areas and smaller communities so that it serves very low- and low-income persons.

(b) RHCDS intends to permit grantees considerable latitude in program design and administration. The forms or types of assistance must provide the greatest long term benefit to the greatest number of persons residing in individual housing, rental properties, or co-ops needing repair and rehabilitation, or replacement of individual housing.

(c) Repairs and rehabilitation or replacement activities affecting properties on or eligible for listing on the National Register of Historic Places will be accomplished in a manner that supports national historic preservation objectives as specified in § 1944.673 of this subpart.

4. Section 1944.653 is amended by adding a sentence to the end of the paragraph to read as follows:

§ 1944.653 Objective.

* * * Further, individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement, except as specified in § 1944.659 of this subpart.

5. Section 1944.656 is amended by adding a sentence to the end of the definition of ''Housing preservation'' and by adding the definition of ''Replacement housing'' in alphabetical order, to read as follows:

§ 1944.656 Definitions.

* * * * *

Housing preservation. * * * The term housing preservation does not apply to replacement housing.

* * * * *

Replacement housing. The replacement of existing, individual owner/occupied housing where repair and/or rehabilitation assistance is not economically feasible or practical. The term replacement housing does not apply to housing preservation.

* * * * *

§ 1944.658 [Amended]

6. Section 1944.658 is amended by adding the words '', as well as for replacement housing'' after the word ''assistance'' in paragraph (a)(2).

7. Section 1944.659 is added to read as follows:

§ 1944.659 Replacement housing.

Replacement housing applies only to existing, individual owner/occupied housing. Replacement housing does not apply to rental properties (single-unit or multiple-unit) or to cooperative housing projects. The grantee is responsible for determining the extent of the repairs and rehabilitation prior to any assistance given to an individual homeowner. If the cost of such repairs and rehabilitation is not economically feasible or practical, then the grantee may consider replacing the existing housing with replacement housing, subject to the following:

(a) The HPG grantee:

(1) Shall document the total costs for all repairs and rehabilitation on the existing housing; and

(2) Shall document the basis for the determination that the costs for all repairs and rehabilitation for the existing housing are not economically feasible or practical;

(b) The individual homeowner:

(1) Must meet all requirements of § 1944.661 of this subpart;

(2) Must have been denied a RHCDS section 502 loan;

(3) Must lack the income and repayment ability to replace their existing home without the assistance of the HPG grantee; and

(4) Must be able to afford the replacement housing on terms set forth by the HPG grantee;

(c) The existing home:

(1) Must be demolished to make way for the replacement housing; and

(2) May not be sold to make way for the replacement housing;

(d) The replacement housing:

(1) May be either new housing or a dwelling brought onto the site of the existing housing;

(2) May use no more than $15,000 in HPG funds;

(3) Must meet all applicable requirements of § 1944.16 of Subpart A of this part; and

(4) May not be sold for a minimum of 5 years.

(e) Any monies received by the homeowner from selling salvaged material after demolishing the existing home must be used towards the replacement housing.

8. Section 1944.661 is amended by revising the introductory text of paragraph (b)(2) and paragraph (b)(3) to read as follows:

§ 1944.661 Individual homeowners—eligibility for HPG assistance.

* * * * *

(b) * * *

(2) An undivided or divided interest in the property to be repaired, rehabilitated, or replaced when not all of the owners are occupying the property. HPG assistance may be made in such cases when:

* * * * *

(3) A leasehold interest in the property to be repaired, rehabilitated, or replaced. When the potential HPG recipient's ''ownership'' interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure or replace it without increasing the recipient's lease cost.

* * * * *

9. Section 1944.664 is amended by redesignating paragraphs (d) through (g) as (e) through (h) respectively, by revising the words ''to make improvements that'' to read ''where they'' in the first sentence of the introductory text of newly redesignated paragraph (f); by adding the words ''or replacement housing'' after the word ''preservation'' in the introductory text of newly redesignated paragraph (g); by revising the section heading, paragraph (a), and newly redesignated paragraphs (h)(1) and (h)(3); and by adding paragraph (d) to read as follows:

§ 1944.664 Housing preservation and replacement housing assistance.

(a) Grantees are responsible for providing loans, grants, or other comparable assistance to homeowners,

owners of rental properties, co-ops for housing preservation or for replacement housing as described in § 1944.656 of this subpart.

* * * * *

(d) Authorized replacement housing assistance includes, but is not limited to:

(1) Building a dwelling and providing related facilities for use by the individual homeowner as a permanent resident;

(2) Providing a safe and sanitary water and waste disposal system, together with related plumbing and fixtures, which will meet local health department requirements;

(3) Providing minimum site preparation, including grading, foundation plantings, and minimal landscaping;

(4) Providing special design features or equipment when necessary because of physical handicap or disability of the HPG recipient or member of the household;

(5) Purchasing and installing approved energy saving measures and approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available;

(6) Providing storm cellars and similar protective structures, if typical for the area;

(7) Paying real estate taxes which are due and payable on the existing dwelling/site at the time of closing, if this amount is not a substantial part of the HPG assistance;

(8) Providing living area for the HPG recipient and all members of the household as specified in § 1944.16 (c) of subpart A of this part; and

(9) Moving a dwelling onto the site of the demolished, previously existing housing and meeting all HPG housing preservation requirements for repair and rehabilitation;

(10) Providing funds for demolishing the existing housing; and

(11) Any other cost that is reasonable and justifiable directly related to replacement activities.

* * * * *

(h) * * *

(1) Assist in the construction or completion of an addition (excluding paragraph (c)(11) of this section) or a new dwelling. This paragraph does not apply to replacement housing.

* * * * *

(3) Repair or rehabilitate, as well as replace any property located in the Coastal Barrier Resources System.

10. Section 1944.665 is amended by revising the heading and the first sentence to read as follows:

§ 1944.665 Supervision and inspection of work.

Grantees are responsible for supervising all rehabilitation and repair work, as well as replacement housing financed with HPG assistance. * * *

§ 1944.666 [Amended]

11. Section 1944.666 is amended by revising the reference ''§ 1944.64 (f)'' to read ''§ 1944.664 (g)'' in the last sentence of paragraph (b)(3), and by adding the words '', as well as for replacement housing (individual homeowners only)'' after the word ''rehabilitation'' in paragraph (b)(6).

§ 1944.667 [Amended]

12. Section 1944.667 is amended by adding the words '', or for individual homes replaced,'' after the word ''rehabilitated'' in the second sentence of the introductory text of paragraph (a).

13. Section 1944.670 is amended by revising paragraph (b) to read as follows:

§ 1944.670 Project income.

* * * * *

(b) Grantees are encouraged to establish a program which reuses income from loans after the grant period for continuing repair and rehabilitation activities, as well as for individual housing replaced.

14. Section 1944.671 is amended by revising paragraph (a)(2) to read as follows:

§ 1944.671 Equal opportunity requirements and outreach efforts.

* * * * *

(a) * * *

(2) The term ''residential real estate-related transaction'' includes the making or purchasing of loans, grants, or other financial assistance for purchasing, constructing, improving, repairing, or rehabilitating a unit or dwelling, as well as for replacement housing for individual homeowners.

* * * * *

15. Section 1944.672 is amended by adding the words ''or housing replacement'' after the word ''preservation'' in the fourth sentence of paragraph (b); in paragraph (d), by revising the reference ''Paragraph VII of exhibit C of this subpart'' to read ''Paragraph VIII of exhibit C of this subpart''; and by revising the first sentence of paragraphs (a) and (b) to read as follows:

§ 1944.672 Environmental requirements.

* * * * *

(a) The approval of an HPG grant for the repair, rehabilitation, or replacement of dwellings shall be a Class I action. * * *

(b) The use of HPG funds by the grantee to repair, rehabilitate, or replace specific dwellings is generally exempt from an RHCDS environmental review. * * *

* * * * *

§ 1944.673 [Amended]

16. Section 1944.673 is amended by adding the words ''and replacement housing'' after the word ''preservation'' in the section heading, and by revising the words ''rehabilitation or repair'' to read ''rehabilitation, repair, or replacement'' in the first sentence of paragraph (b).

17. Section 1944.683 is amended by redesignating paragraphs (b)(3) through (b)(7) as paragraphs (b)(4), through (b)(8) respectively, by adding the words '', as well as for replacement housing,'' after the word ''rehabilitation'' in newly redesignated paragraph (b)(4)(i) and after the word ''financed'' in newly redesignated paragraph (b)(8), and by adding a new paragraph (b)(3) to read as follows:

§ 1944.683 Reporting requirements.

* * * * *

(b) * * *

(3) The use of HPG and any other funds for replacement housing.

* * * * *

Dated: March 22, 1995.

Michael V. Dunn,

Acting Under Secretary, Rural Economic and Community Development.

[FR Doc. 95–9262 Filed 4–14–95; 8:45 am]

BILLING CODE 3410–07–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

RIN 3150–AF27

Physical Security Plan Format Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to eliminate the requirement for applicants for power reactor and Category I fuel cycle licenses to submit physical security plans in two parts. This action is necessary to allow for a quicker and more efficient review of the physical security plans.

DATES: The comment period expires May 17, 1995. Comments received after this date will be considered if it is

practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm, Federal workdays.

Copies of the comments received may be examined at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Room LL6, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Brown, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8092.

SUPPLEMENTARY INFORMATION: Under current NRC regulations, applicants for power reactor and Category I fuel cycle licenses must submit physical security plans in two parts. Applicants for power reactor and Category I fuel cycle licenses are required to address in Part 1 of their plans how they will comply with the applicable regulations of 10 CFR parts 11 and 73. They are required to list in Part 2 of their plans any test, inspections, audits and any other means to be used to demonstrate compliance with the regulations.

The two part format is restrictive and has no regulatory advantage. If this rule is adopted as a final rule, existing licensees with physical security plans approved before the effective date would not be required to revise their plans. These licensees may however, revise their plans on a voluntary basis, pursuant to the rules that permit licensees to make changes in security plans that do not decrease the effectiveness of the plans. This rule, if adopted, will not change any of the substantive content currently required in the physical security plans.

The benefit of this rulemaking would be the elimination of an unnecessary requirement and there are no expected adverse impacts. For those licensees who desire to revise their physical security plans, the staff has revised Regulatory Guide 5.52, ''Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material at Fixed Sites (Other than Nuclear Power Plants),'' for use as guidance. The NRC encourages, but does not require, applicants or licensees to follow this guidance which would allow for a quicker and more efficient review of the plans.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0009 and 0011.

Regulatory Analysis

The Commission has not prepared a regulatory analysis on this regulation because the amendment does not involve a question of policy, will have no impact on public health and safety, and would impose no additional burden on licensees.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. This proposed rule would affect applicants for power reactor and Category I fuel cycle licenses. Because these licensees are not classified as small entities as defined by the NRC's size standards (December 9, 1985; 50 FR 50241), the Commission finds that this proposed rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

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

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50 and 70.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853(42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80, 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

2. In § 50.34, paragraph (c) is revised to read as follows:

§ 50.34 Contents of applications, technical information.

* * * * *

(c) Each application for a license to operate a production or utilization facility must include a physical security plan. The plan must describe how the applicant will meet the requirements of 10 CFR part 73 (and 10 CFR part 11, if applicable, including the identification and description of jobs as required by § 11.11(a), at the proposed facility). The plan must list tests, inspections, audits,

and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

4. In § 70.22, paragraph (h)(1) is revised to read as follows:

§ 70.22 Contents of applications.

* * * * *

(h)(1) Each application for a license to possess or use at any site or contiguous sites subject to licensee control, a formula quantity of strategic special nuclear material as defined in § 70.4 other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to part 50 of this chapter, must include a physical security plan. The plan must describe how the applicant will meet the applicable requirements of part 73 of this chapter in the conduct of the activity to be licensed, including the identification and description of jobs as required by 10 CFR 11.11(a). The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

* * * * *

Dated at Rockville, Maryland, this 5th day of April, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–9369 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–33–AD]

Airworthiness Directives; Beech Aircraft Corporation Model 1900D 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 Beech Aircraft Corporation (Beech) Model 1900D airplanes. The proposed action would require inspecting the cabin partition to ensure that a right-hand forward partition bracket exists on certain airplanes, installing this bracket if it does not exist, and improving the right-hand forward partition installation on all affected airplanes. Deficiencies found during a structural analysis of the cabin partition prompted the proposed action. The actions specified by the proposed AD are intended to prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–33–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. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4124; 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. 94–CE–33–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. 94–CE–33–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report from the Beech Aircraft Corporation (Beech) of a structural deficiency on Model 1900D airplanes. Beech reports that certain Model 1900D airplanes may be missing a bracket on the right-hand forward cabin partition, and that, even with this bracket installed, the airplane model design may not be capable of withstanding the load incurred with the baggage compartment loaded to its 250-pound limit. This condition, if not detected and corrected, could result in passenger injury if this load is incurred with the airplane occupied.

Beech has issued Service Bulletin (SB) No. 2556, Revision 1, dated February 1995, which references Kit Drawing No. 129–5007 and Kit No. 129–5007–1 S. Kit Drawing No. 129–5007 specifies the design location of the bracket that may be missing, and Kit No. 129–5007–1 S includes parts and instructions necessary to improve the

right-hand forward partition installation.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) a structural improvement should be added to the right-hand forward partition on Beech Model 1900D airplanes; and (2) AD action should be taken to prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech Model 1900D airplanes of the same type design, the proposed AD would require inspecting the right-hand forward partition on certain serial number airplanes to ensure that the partition bracket exists, installing this bracket if it does not exist, and incorporating a structural improvement to the right-hand forward partition on all affected airplanes. The proposed action would be accomplished in accordance with Kit Drawing No. 129–5007 and the instructions to Kit No. 29–5007–1 S, as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

The FAA estimates that 73 airplanes in the U.S. registry would be affected by the proposed inspection and possible installation and 91 airplanes in the U.S. registry would be affected by the proposed modification. The proposed inspection and possible installation would take approximately 5 workhours per airplane to accomplish and the proposed modification would take approximately 5 workhours per airplane to accomplish, with a labor rate of approximately $60 an hour. Parts for the proposed modification cost approximately $650 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $108,350. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the proposed modification and no airplane has a right-hand forward partition bracket installed and would need one installed.

Beech has informed the FAA that it has distributed parts (Kit No. 129–5007–1 S) to accommodate approximately 58 of the affected airplanes. Assuming that each of these distributed kits is incorporated on one of the affected airplanes, the cost of the proposed AD would be further reduced by $55,100 from $108,350 to $53,250.

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 ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 a new airworthiness directive to read as follows:

Beech Aircraft Corporation: Docket No. 94–CE–33–AD.

Applicability: Model 1900D airplanes, serial numbers UE–2 through UE–92, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any aircraft from the applicability of this AD.

Compliance: Required within the next 400 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit, accomplish the following:

(a) For airplanes incorporating one of the following serial numbers: UE–2 through UE–68, UE–70 through UE–72, or UE–74 through UE–77, inspect the cabin partition to ensure that a right-hand partition bracket, part number (P/N) 129–530043–79, exists. If this bracket does not exist, prior to further flight, install this bracket with P/N MS27039–1–09 screws and P/N AN960PD10 washers in accordance with Kit Drawing No. 129–5007 as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

(b) For all affected serial numbers (UE–2 through UE–92), improve the right-hand forward partition installation in accordance with the instructions to Kit No. 129–5007–1 S as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(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 (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 11, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9343 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–CE–21–AD]

Airworthiness Directives; Piper Aircraft Corporation Model PA–31T2 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 Piper Aircraft Corporation (Piper) Model PA–31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199–111 installed in accordance with Supplemental Type Certificate (STC) SA599GL. The proposed action would require rerouting the landing gear emergency extension air line. Three incidents of the brake cylinder contacting the landing gear emergency extension air line on both wheels prompted the proposed action. The actions specified by the proposed AD are intended to prevent the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–21–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 Parker Hannifan Corporation, Aircraft Wheel & Brake, 1160 Center Road, P.O. Box 158, Avon, Ohio 44011; telephone (216) 937–6211; facsimile (216) 937–5409. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Nick Miller, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018; telephone (708) 294–7379; facsimile (708) 294–7834; or Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7362; facsimile (404) 305–7348.

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. 95–CE–21–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. 95–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received three reports of the brake cylinder chafing against the landing gear emergency extension air line of both wheels on Piper Model PA–31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199–111 installed in accordance with STC SA599GL. As the brake linings become worn through regular usage, the brake cylinder repositions. Then, when the landing gear is in the up and locked position, the brake cylinder chafes against the air line. This condition, if not detected and corrected, could result in damage to the landing gear emergency extension air line and subsequent loss of emergency gear extension capability.

Parker Hannifan has issued Service Bulletin SB7034, dated April 23, 1994, which specifies procedures for rerouting the landing gear emergency extension air line on these Piper Model PA–31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199–111 installed in accordance with STC SA599GL.

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 the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Model PA–31T2 airplanes of the same type design that have a Parker Hannifin Wheel and Brake Conversion Kit 199–111 installed in accordance with STC SA599GL, the proposed AD would require rerouting the landing gear emergency extension air line. The proposed action would be accomplished in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Parker Hannifan Service Bulletin SB7034, dated April 23, 1994.

The FAA estimates that there are 62 Piper Model PA–31T2 airplanes in the U.S. registry that could incorporate a Parker Hannifin Wheel and Brake Conversion Kit 199–111 (in accordance with STC SA599GL), that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $20 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators could be as much as $16,120 if all affected airplanes had the referenced conversion kit installed.

Parker Hannifan has informed the FAA that it has distributed 31 kits to Piper Model PA–31T2 airplane owners/operators. Based on each of the 31 kits being incorporated on an affected airplane, the cost impact of the proposed AD on U.S. owners and operators would be reduced 50 percent from $16,120 to $8,060. The reduction

results from the difference between the 62 airplanes that are type certificated to have a Parker Hannifan Wheel and Brake Conversion Kit 199–111 installed (in accordance with STC SA599GL) and the owners/operators of the 31 of the 62 airplanes that have received these kits.

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 ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 a new AD to read as follows:

Piper Aircraft Corporation: Docket No. 95–CE–21–AD.

Applicability: Model PA31–T2 airplanes (serial numbers 31T–8166001 through 31T–1166062), certificated in any category, that have a Parker Hannifin Wheel and Brake Conversion Kit 199–111 installed in accordance with Supplemental Type Certificate (STC) SA599GL.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any aircraft from the applicability of this AD.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability, accomplish the following:

(a) Reroute the landing gear emergency extension air line in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Parker Hannifan Service Bulletin SB7034, dated April 23, 1994.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office (ACO), FAA, 300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Parker Hannifan Corporation, Aircraft Wheel & Brake, 1160 Center Road, P.O. Box 158, Avon, Ohio 44011; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 11, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9344 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–185–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11–200 and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAC 1–11–200 and –400 series airplanes. This proposal would require various inspections to detect discrepancies of fuselage frames at certain stations, and correction of discrepancies; and rework to limit the maximum differential operating pressure of the fuselage. This proposal would also require eventual modification of fuselage frames at certain stations, which would terminate the repetitive inspection requirements. This proposal is prompted by reports of fatigue cracking in certain fuselage frames in the vicinity of the passenger door at floor level due to fatigue-related stress. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

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 shall 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 summarizing 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 Number 94–NM–185–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAC 1–11–200 and –400 series airplanes. The CAA advises that reports have been received of fatigue cracking in frames 178 and 213.5 in the vicinity of the passenger door at floor level. Investigation revealed that such cracking was caused by fatigue-related stress. Such fatigue-related cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin.

British Aerospace has issued Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993. This alert service bulletin describes procedures for various repetitive inspections to detect structural discrepancies of the various structural configurations of the fuselage frames at stations 178 and 213.5, and correction of any discrepancy. This alert service bulletin also describes procedures for rework to limit the maximum differential operating pressure of the fuselage. Additionally, this alert service bulletin describes procedures for modification of fuselage frames at stations 178 and 213.5, which would eliminate the need for the repetitive inspections. For airplanes unrepaired or not reinforced by repair and operated at cabin pressurization differentials not exceeding 7.5 pounds per square inch (psi), the alert service bulletin describes procedures for the installation of terminating Modification PM5993 at 55,000 total landings. This modification introduces reinforcing structure to the subject area. The CAA classified this alert service bulletin as mandatory.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require various repetitive inspections to detect structural discrepancies of the various structural configurations of the fuselage frames at stations 178 and 213.5, and correction of any discrepancy. The proposed AD would also require rework to limit the maximum differential operating pressure of the fuselage. Additionally, this proposed AD would require eventual modification of fuselage frames at stations 178 and 213.5, which would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

The requirements of this proposed AD would differ from certain actions recommended in the referenced alert service bulletin. Specifically, for airplanes unrepaired or not reinforced by repair and operated at cabin pressurization differentials not exceeding 7.5 psi, the proposed AD would require installation of terminating Modification PM5993 prior to the accumulation of 85,000 total landings, rather than 55,000 total landings as indicated in the alert service bulletin. The higher threshold of 85,000 landings for modification has been recommended by the Airworthiness Assurance Working Group (AAWG), sponsored by the Air Transport Association (ATA) of America, the Aerospace Industries Association (AIA), and the FAA. In selecting that threshold, the AAWG considered the type of cracking involved, the impact such cracking would have on the adjacent structure, and service history of cracking in the subject area. The AAWG has recommended, and the FAA concurs, that safety will not be compromised if Modification PM5993 is installed prior to the accumulation of 85,000 total landings.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 8 work hours per airplane to accomplish the proposed inspection at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $14,880, or $480 per airplane.

It would take approximately 80 work hours per airplane to accomplish the

proposed modification at an average labor rate of $60 per work hour. Required parts would cost approximately $2,000 per airplane. Based on these figures, the total cost impact of the modification proposed by this AD on U.S. operators is estimated to be $210,800, or $6,800 per airplane.

Based on above figures, the total cost impact of the proposed inspection and modification on U.S. operators is estimated to be $225,680, or $7,280, per airplane.

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

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–185–AD.

Applicability: Model BAC 1–11–200 and –400 series airplanes on which British Aerospace Modifications PM5445 and PM5713 have not been installed, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (h) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in fuselage frames at stations 178 and 213.5 in the vicinity of the passenger door at floor level, which could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin, accomplish the following:

(a) For airplanes unrepaired or not reinforced by repair on frames 178 and 213.5, in the area between stringers 25L and 27L: Accomplish paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (a)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.1.5 or 2.1.10, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frame at stations 178 and 213.5 in accordance with paragraph 2.1.5 or 2.1.10, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 pounds per square inch (psi), in accordance with the alert service bulletin.

(b) For airplanes on which Structural Repair Manual, figure 76, repair in-situ has been acccomplished: Accomplish paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (b)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.2.6 or 2.2.9, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frame at stations 178 and 213.5 in accordance with paragraph 2.2.6 or 2.2.9, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (b)(1) and (b)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(c) For airplanes on which Structural Repair Manual, figure 87, repair has been accomplished: Accomplish paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter

at intervals specified in paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (c)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.3.5 or 2.3.8, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.3.5 or 2.3.8, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (c)(1) and (c)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(d) For airplanes on which Structural Repair Manual, figure 110 or 111, repair has been accomplished: Accomplish paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.4 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.4 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (d)(1) of this AD, prior to further flight, correct the discrepancy in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.4.5 or 2.4.8, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.4.5 or 2.4.8, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (d)(1) and (d)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(e) For airplanes on which Structural Repair Manual, figure 76, reinforcement has been accomplished: Accomplish paragraphs (e)(1), (e)(2), (e)(3), (e)(4), and (e)(5) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (e)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.5.5 or 2.5.10, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.5.5 or 2.5.10, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (e)(1) and (e)(2) of this AD.

(4) For airplanes operated at a cabin maximum pressure differential in excess of 7.5 psi, prior to the threshold times specified in Table C of the service bulletin, replace the reinforcements accomplished in accordance with the Structural Repair Manual, figure 76, with reinforcements accomplished in accordance with Structural Repair Manual 53–02–00, figure 110 or 111, as specified in the alert service bulletin.

(5) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(f) For airplanes on which Structural Repair Manual, figure 87, reinforcement has been accomplished: Accomplish paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (f)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.6.6 or 2.6.9, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.6.6 or 2.6.9, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (f)(1) and (f)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(g) For airplanes on which repairs other than those described in the Structural Repair Manual have been accomplished on frames 178 and 213.5, in the area between stringers 25L and 27L: Accomplish paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Within 6 months after the effective date of this AD, submit the following for approval to the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate:

(i) Procedures and schedule for accomplishing the initial and repetitive inspections of the fuselage frames at stations 178 and 213.5; and

(ii) Schedule for installation of Modification PM5993 or Structural Repair Manual, figure 110 and 111, as applicable, at the fuselage frames at stations 178 and 213.5.

(2) Within 6 months after the procedures and schedules are approved, revise the FAA-approved maintenance program to include these procedures.

(3) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9345 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 94–NM–183–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes, that currently requires structural inspections and repairs or replacements, as necessary. This action would require additional inspections of certain Structural Significant Items (SSI) and expansion of the inspection area for certain other SSI's. This proposal is prompted by the results of a structural integrity audit, which indicated that in order to maintain the structural integrity of these airplanes as they approach or exceed the manufacturer's original fatigue design life goal, certain SSI's need to be inspected. The actions specified by the proposed AD are intended to ensure continuing structural integrity of these airplanes.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

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 shall 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 summarizing 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 Number 94–NM–183–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, Transport Airplane Directorate, ANM–03, Attention: Rules Docket No. 94–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 16, 1988, the FAA issued AD 87–24–06 R1, amendment 39–6037 (53 FR 37993, September 29, 1988), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes. That AD requires structural inspections and repairs or replacements, as necessary, in order to ensure the continuing airworthiness of these airplanes as they approach or exceed the manufacturer's original fatigue design life goal. That action was prompted by a structural re-evaluation, which identified certain structurally significant items (SSI) in which undetected fatigue cracks could propagate and compromise the structural integrity of these airplanes. The requirements of that AD are intended to ensure continuing structural integrity of these airplanes.

Since the issuance of that AD, British Aerospace has conducted a structural integrity audit to assess the structural inspection program of Model BAC 1–11 200 and 400 series airplanes. The results of this audit indicated that, in order to maintain the structural integrity of these airplanes as they approach or exceed 85,000 landings (the manufacturer's original fatigue design life goal), certain additional SSI's need to be inspected and the inspection area for certain other SSI's needs to be expanded.

British Aerospace has issued BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993. This revision of the alert service bulletin adds ten inspections of the doors to the structural inspection program. Some of these inspections merely expand the area of inspection for certain SSI's. Additionally, this revision of the alert service bulletin describes procedures for repair or replacement of cracked parts. Table 3 of the alert service bulletin specifies life limits for certain components in the engine mount/attachment structure of certain airplanes. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has classified this revision of the alert service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 87–24–06 R1 to require a revision of the FAA-approved maintenance inspection program to

include additional structural inspections of certain SSI's, expansion of the inspection area for certain other SSI's, and repair or replacement of cracked parts; and establishes a life limit for the engine mount/attachment structure on certain airplanes. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

However, certain inspections and repairs specified in the alert service bulletin have been excluded from the requirements of this proposal. Those inspections and repairs have been identified in the alert service bulletin as Maintenance Planning Guide (MPG), Reference Numbers 52–10–6R and 53–10–2R. The actions specified in MPG 52–10–6R are currently required by AD 87–21–06, amendment 39–5744 (52 FR 38396, October 16, 1987), and those in MPG 53–10–29R will be addressed in a separate rulemaking action.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 158 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $293,880, or $9,480 per airplane, per inspection cycle.

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

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 removing amendment 39–6037 (53 FR 37993, September 29, 1988), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–183–AD. Supersedes AD 87–24–06 R1, Amendment 39–6037.

Applicability: Model BAC 1–11 200 and 400 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure continuing structural integrity of the airplane, accomplish the following:

(a) Within 6 months after November 3, 1988 (the effective date of AD 87–4–06 R1, amendment 39–6037), incorporate a revision into the FAA-approved maintenance inspection program which requires inspections, repairs, and replacements, as necessary, in accordance with Tables 1, 2, and 3 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 3, dated March 19, 1987. The revision to the maintenance inspection program must include procedures to notify the manufacturer when Structural Significant Items are found cracked or otherwise significantly deteriorated. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056. The inspection thresholds, repetitive intervals and inspection techniques are listed in the alert service bulletin.

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD, with a revision which requires inspections, repairs, and replacements, as necessary, in accordance with Tables, 1 (except Maintenance Planning Guide Reference Numbers 52–10–6R and 53–10–29R), 2, and 3 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993. The revision to the maintenance inspection program must include procedures to notify the manufacturer when Structural Significant Items are found cracked or otherwise significantly deteriorated. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056. The inspection thresholds, repetitive intervals and inspection techniques are listed in the alert service bulletin.

Note 2: Maintenance Planning Guide (MPG) Reference Numbers 52–10–6R and 53–10–29R, listed in Table 1 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993, are excluded from the requirements of this AD for the following reasons:

MPG reference No.	Reason
52–10–6R	Required by AD 87–21–06, amendment 39–5744.
53–10–29R ..	Will be addressed in a separate rulemaking action.

(c) Within one year after November 3, 1988 (the effective date of AD 87–24–06 R1, amendment 39–6037), or prior to the accumulation of the number of landings listed in the landing threshold indicated in British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 3, dated March 19, 1987, whichever occurs later, and thereafter, at intervals not to exceed the number of landings specified in the alert service bulletin, accomplish the inspections, repairs, and replacements, as necessary, of the Structural Significant Items identified in Tables 1, 2, and 3 of that service bulletin.

(d) Within one year after the effective date of this AD, or prior to the accumulation of the number of landings listed in the landing threshold indicated in British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993, whichever occurs later, and thereafter, at intervals not to exceed the number of landings specified in the alert service bulletin, accomplish the inspections, repairs, and replacements, as necessary, of the Structural Significant Items identified in Tables 1 (except Maintenance Planning Guide Reference Numbers 52–10–6R and 53–10–29R), 2, and 3 of the alert service bulletin.

Note 3: For operators that have accomplished this inspection previously in accordance with the requirements of AD 87–24–06 R1, amendment 39–6037: This paragraph requires that the next scheduled inspection for that SSI be performed within the repetitive interval specified for that SSI in the alert service bulletin after the last inspection performed in accordance with the requirements of AD 87–24–06 R1 for that SSI.

(e) For any cracked structure detected during any inspection required by this AD, prior to further flight, accomplish paragraph (e)(1), (e)(2), or (e)(3) of this AD.

(1) Replace the cracked part with a serviceable part of the same part number, in accordance with the Airplane Maintenance Manual. Or

(2) Repair the cracked structure in accordance with the Structural Repair Manual, listed in the service bulletin. Or

(3) Repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9347 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–NM–40–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes Equipped With BFGoodrich Main Landing Gear Brake Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This proposal would require inspection of certain brake assemblies to determine the part number of the torque plates, measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. This proposal is prompted by a report that certain torque plates were misidentified and installed on certain brake assemblies. The actions specified by the proposed AD are intended to prevent decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit. (The brake wear pin indicator would falsely indicate longer remaining wear because of the misidentified longer torque plates that were installed on these brake assemblies.)

DATES: Comments must be received by May 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: David M. Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2672; fax (206) 227–1181.

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 shall 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 summarizing 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 Number 95–NM–40–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, BFGoodrich shipped some torque plates that were misidentified as

part number (P/N) 184–875, when, in reality, they were P/N 184–884. These misidentified torque plates were installed on Boeing Model 737 series airplanes with main landing gear brake assemblies having BFGoodrich P/N's 2–1474–1, –2, –3, and –5 (Boeing P/N's 10–61819–22, –26, –27, and –31). Torque plates having P/N 184–884 should be installed on brake assemblies having P/N 2–1474–7. Although these two torque plates are similar in appearance, the essential difference is that torque plates having P/N 184–884 are 0.240 inch longer than torque plates having P/N 184–875. Therefore, the FAA has determined that brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which the misidentified torque plates were installed, would falsely indicate a longer remaining wear on the brake wear pin indicator. This condition, if not corrected, could result in decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit.

BFGoodrich has issued Service Bulletin 2–1474–32–17, dated January 26, 1995, which describes procedures for a one-time inspection of the brake assemblies on Model 737 series airplanes to determine the P/N of the torque plates. This service bulletin also describes procedures for measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which the misidentified torque plates were installed and replacement with serviceable brakes.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection of certain brake assemblies on Model 737 series airplanes to determine the P/N of the torque plates. This proposed AD would also require measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

This proposal permits, for a period of up to 30 days after the effective date of the rule, installation of brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which misidentified torque plates, P/N 184–884, have been installed. The FAA has determined such replacement will not compromise safety of the fleet since the life expectancy of these brakes is typically 90 to 120 days.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 717 Model 737 series airplanes equipped with BFGoodrich main landing gear brake assemblies of the affected design in the worldwide fleet. The FAA estimates that 325 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,875, or $15 per airplane.

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

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

Boeing: Docket 95–NM–40–AD.

Applicability: Model 737 series airplanes equipped with BFGoodrich main landing gear brake assemblies having part numbers (P/N) 2–1474–1, –2, –3, or –5 (Boeing P/N's 10–61819–22, –26, –27, or –31); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform an inspection of the brake assembly to determine the part number (P/N) of the torque plate, in accordance with BFGoodrich Service Bulletin 2–1474–32–17, dated January 26, 1995.

(b) If the P/N is 184–790, –790–1, –790–2, –790–3, or –875, no further action is required by this paragraph.

(c) If the P/N does not coincide with one identified in paragraph (b) of this AD, prior to further flight, measure the amount of wear remaining on the brake wear pin indicator, in accordance with service bulletin. Remove and replace the brake prior to the time specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD, as applicable.

(1) If the remaining wear on the brake wear pin indicator is equivalent to 0.260 inch or more: Prior to the accumulation of 40 flight cycles, remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. If the brake assembly is replaced with a brake assembly having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which a torque plate having P/N 184–884 has been installed, replace that brake assembly prior to the accumulation of 40 flight cycles since installation. As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

(2) If the remaining wear on the brake wear pin indicator is less than 0.260 inch but more than 0.240 inch: Remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. Use the following formula to determine when the brake assembly must be removed and replaced: (measurement of wear remaining on brake wear pin indicator) − (0.240 inch) × (1,000 flight cycles) = (time, expressed in number of flight cycles, prior to which brake assembly must be removed and replaced). As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

(3) If the remaining wear on the brake wear pin indicator is equivalent to 0.240 inch or less: Prior to further flight, remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9348 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–105–AD]

Airworthiness Directives; Raytheon Corporate Jets Model BAe 125–800A and –1000A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Model BAe 125–800A and –1000A airplanes, that would have required inspections of the wing leading edge skins, including the wing anti-ice fluid distribution panel (TKS panel) rebate and radius; repair, if necessary; and subsequent corrosion protection treatment. That proposal was prompted by reports of corrosion of the wing leading edge skin at the interface with the TKS panels. This action revises the proposed rule by adding inspections and treatments of the landing/taxiing lamp window recess and the stall vane spoiler rebate/radius. The actions specified by this proposed AD are intended to prevent reduced structural integrity of the wing leading edge section at the interface with the TKS panels and stall vane spoilers, which could adversely affect the flight characteristics of the airplane.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Corporate Jets, Inc., 3 Bishops Square Street, Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

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 shall 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 summarizing 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 Number 93–NM–105–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Model BAe 125–800A and –1000A airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 25, 1993 (58 FR

44795). That NPRM would have required inspections of the wing leading edge skins, including the wing anti-ice fluid distribution panel (TKS panel) rebate and radius; repair, if necessary; and subsequent corrosion protection treatment. That NPRM was prompted by reports of exfoliation corrosion found on the wing leading edge skin at the interface with the TKS panel. This condition, if not corrected, could result in reduced structural integrity of the wing leading edge skin and TKS panel interface joint, which could adversely affect the flight characteristics of the airplane. Exfoliation corrosion also could cause in-flight separation of airplane components.

Since issuance of that NPRM, the manufacturer has reported that feedback received from operators who had already accomplished the proposed inspections indicates that corrosion has been found in the area of the landing/taxiing lamp window assembly recess and stall vane spoiler rebate. Such corrosion is due to the ingression of moisture through gaps in the sealant that have developed during service. Corrosion in this area, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing leading edge skin in the vicinity of the landing/taxiing lamp window assembly recess and stall vane spoiler rebate, which could adversely affect the flight characteristics of the airplane.

Raytheon Corporate Jets has issued Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993, which describes procedures for conducting a one-time detailed visual inspection to detect corrosion of the wing leading edge skins, and removal of corrosion, if found. This service bulletin also describes procedures for a detailed visual inspection, a one-time dye penetrant inspection, removal of exfoliation corrosion, and application of an enhanced protective treatment of the TKS panel rebate and radius, the landing/taxiing lamp window assembly recess, and the stall vane spoiler rebate and radius. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this revised service bulletin as mandatory.

The FAA has determined that, in order to adequately address the unsafe condition presented by the problems associated with exfoliation corrosion in the subject areas, the proposed rule must be revised to include inspections of not only the wing leading edge skins and TKS panel rebate and radius, but the landing/taxiing lamp window assembly recess, and the stall vane spoiler rebate and radius, as well. These additional actions would be required to be accomplished in accordance with the revised service bulletin described previously.

The FAA has revised the supplemental NPRM to reflect the corporate name change of Corporate Jets to Raytheon Corporate Jets, Inc., and the address change of Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166 to Raytheon Corporate Jets, Inc., 3 Bishops Square Street, Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 154 Model BAe 125–800A and –1000A airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 130 work hours per airplane to accomplish the proposed inspections, and treatment of the wing leading edge skins (including the TKS rebate and radius), and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,201,200, or $7,800 per airplane.

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

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

Raytheon Corporate Jets, Inc. (Formerly DeHavilland, Inc.; Hawker Siddeley; British Aerospace, PLC): Docket 93–NM–105–AD.

Applicability: Model BAe 125–800A and –1000A airplanes, as listed in Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval

from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing leading edge skin and wing anti-ice fluid distribution panel (TKS panel) interface joint, which could adversely affect the flight characteristics of the airplane, accomplish the following:

(a) Accomplish the actions specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD within the time schedule indicated in each paragraph, and in accordance with Corporate Jets Limited Service Bulletin S.B. 57–77, dated May 20, 1993, or Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993:

(1) Within 24 months since airplane manufacture, or within 12 months after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect corrosion of the polished surface of the top and bottom leading edge skins on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair the wing leading edge skins in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Prior to further flight after accomplishing the actions required by paragraph (a)(1) of this AD, conduct a detailed visual inspection to detect corrosion of the wing anti-ice fluid distribution panel (TKS panel) rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to further flight after accomplishing the actions required by paragraph (a)(2) of this AD, conduct a dye penetrant inspection to detect corrosion of the TKS panel rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(4) Prior to further flight after accomplishing the actions required by paragraph (a)(3) of this AD, accomplish both of the following actions in accordance with either service bulletin:

(i) Apply enhanced protective treatment to the TKS panel rebate and radius, on the top and bottom leading edge skin section on each wing; and

(ii) Conduct a flight check of the airplane stall warning system and stall characteristics.

(b) Accomplish the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD within the time schedule indicated in each paragraph, and in accordance with Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993:

Note 2: Any inspection specified in paragraph (b)(1), (b)(2), and (b)(3) of this AD that was conducted prior to the effective date of this AD in accordance with Corporate Jets Limited Service Bulletin S.B. 57–77, dated May 20, 1993, is considered to be in compliance with this paragraph.

Note 3: The actions required by paragraph (b) of this AD may be accomplished in conjunction with the actions required by paragraph (a) within the compliance time required by paragraph (a).

(1) Within 2 years after the effective date of this AD, conduct a detailed visual inspection to detect corrosion of the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with the service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with the service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Prior to further flight after accomplishing the actions required by paragraph (b)(1) of this AD, conduct a dye penetrant inspection to detect corrosion of the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with the service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with the service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to further flight after accomplishing the actions required by paragraph (b)(2) of this AD, accomplish both of the following actions in accordance with the service bulletin:

(i) Apply enhanced protective treatment to the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing; and

(ii) Conduct a flight check of the airplane stall warning system and stall characteristics.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9349 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–244–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that currently requires the implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. This action

would require, among other things, clarification of some Principle Structural Elements (PSE) and some non-destructive inspection (NDI) procedures. This proposal is prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to clarify some PSE's and some NDI procedures. The actions specified by the proposed AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Comments must be received by June 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Department L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

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 shall 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 summarizing 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 Number 94–NM–244–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 25, 1993, the FAA issued AD 93–17–09, amendment 39–8680 (58 FR 54949, October 25, 1993), applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, to require implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. That action was prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to clarify some Principal Structural Elements (PSE) and some non-destructive inspection (NDI) procedures. The requirements of that AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

Since the issuance of that AD, the manufacturer has issued McDonnell Douglas Report No. L26–012, ''DC–10 Supplemental Inspection Document (SID),'' Volume I, Revision 5, dated October 1994; Volume II, Revision 5, dated October 1994; and Volume III–94, dated November 1994. This revision of the SID revises the sampling program by:

1. Clarifying some PSE titles;
2. Moving portions of some PSE's under a different PSE designator;
3. Clarifying some non-destructive inspection (NDI) procedures;
4. Including some revised alternative NDI procedures for previously existing PSE's; and
5. Updating the planning data continued in Volume III–94.

The FAA has reviewed and approved the revised SID and has determined that these revised procedures must be incorporated into the affected operators' SID programs in order to provide an acceptable level of confidence that cracks in PSE's do not exist in the fleet.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93–17–09 to require clarifying some PSE titles and some NDI procedures, and updating the planning data. The actions would be required to be accomplished in accordance with the service document described previously.

There are approximately 419 Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 249 airplanes of U.S. registry and 13 U.S. operators would be affected by this proposed AD. Incorporation of the SID program into an operator's maintenance program, as required by AD 93–17–09 is estimated to necessitate 1,270 work hours (per operator), at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate the SID program is estimated to be $990,600.

The incorporation of the revised procedures proposed in this AD action would require approximately 20 additional work hours per operator to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate these revised procedures into the SID program into an operator's maintenance program is estimated to be $15,600.

The recurring inspection costs, as required by AD 93–17–09, are estimated to be 365 work hours per airplane per year, at an average labor rate of $60 per work hour. Based on these figures, the recurring inspection costs required by AD 93–17–09 are estimated to be $21,900 per airplane, or $5,453,100 for the affected U.S. fleet.

Since no new recurring inspection procedures have been added to the program by this proposed AD action, there would be no additional economic burden on affected operators to perform additional recurrent inspections.

Based on the above figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,468,700 for the first year, and $5,453,100 for each year thereafter. These ''total cost

impact'' figures assume that no operator has yet accomplished any of the requirements of this AD. However, it can be reasonably assumed that a majority of the affected operators have already initiated the SID program (as required by AD 93–17–09).

Additionally, the number of required work hours for each proposed inspection (and the SID program), as indicated above, is presented as if the accomplishment of those actions were to be conducted as ''stand alone'' actions. However, in actual practice, these actions for the most part will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Further, any cost associated with special airplane scheduling can be expected to be minimal.

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 removing amendment 39–8680 (58 FR 54949, October 25, 1993), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 94–NM–244–AD. Supersedes AD 93–17–09, Amendment 39–8680.

Applicability: Model DC–10 series airplanes and KC–10A (military) airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after November 24, 1993 (the effective date of AD 93–17–09, amendment 39–8680), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of the Principal Structural Elements (PSE's) defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, ''DC–10 Supplemental Inspection Document (SID),'' Revision 3, dated December 1992, in accordance with Section 2 of Volume III–92, dated October 1992, of the SID. The non-destructive inspection (NDI) techniques set forth in Section 2 and Section 4 of Volume II, Revision 3, dated December 1992, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III–92, dated October 1992, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For those Fleet Leader Operator Sampling (FLOS) PSE's which do not have a Normal Maintenance Visual Inspection specified in Section 4 of Volume II, Revision 3, dated December 1992, of the SID, the procedure for general visual inspection is as follows: Perform an inspection of the general PSE area for cleanliness, presence of foreign objects, security of parts, cracks, corrosion, and damage.

(2) For PSE's 53.10.031E/.032E, 53.10.047E/.048E, and 57.10.029E/.030E: The ENDDATE for these PSE's is October 1993. (For these PSE's disregard the June 1993 ENDDATE specified in Section 2 of Volume III–92, dated October 1992, of the SID.)

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD with a revision that provides for inspection(s) of the PSE's defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, ''DC–10 Supplemental Inspection Document (SID),'' Revision 5, dated October 1994, in accordance with Section 2 of Volume III–94, dated November 1994, of the SID.

(1) Prior to reaching the threshold (N_{th}) specified for any PSE listed in Volume III–94, dated November 1994, of the SID inspect each PSE sample in accordance with the NDI procedures set forth in Section 2 and Section 4 of Volume II, Revision 5, dated October 1994. Thereafter repeat the inspection for that PSE at intervals not to exceed DNDI/2 of the NDI procedure that is specified in Volume III–94, dated November 1994, of the SID.

(2) The NDI techniques set forth in Section 2 and Section 4 of Volume II, Revision 5, dated October 1994, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph.

(3) Visual inspections of all PSE's on airplanes listed in Volume III–94, dated November 1994, of the SID planning data, are required by the fleet leader-operator sampling (FLOS) program at least once during the interval between the start date (SDATE) and the end date (EDATE) established for each PSE. These visual inspections are defined in Section 4 of Volume II, Revision 5, dated October 1994, of the SID, and are required only for those airplanes that have not been inspections previously in accordance with Section 2 of Volume II, Revision 5, dated October 1994, of the SID.

(4) For those Fleet Leader Operator Sampling (FLOS) PSE's which do not have a Normal Maintenance Visual Inspection specified in Section 4 of Volume II, Revision 3, dated December 1992, of the SID, the procedure for general visual inspection is as follows: Perform an inspection of the general PSE area for cleanliness, presence of foreign objects, security of parts, cracks, corrosion, and damage.

(5) For PSE's 53.10.055/.056E, 55.10.013/.014B, 53.10.005/.006E, 53.10.031/.032E, 53.10.047/.048E, 57.10.029/.030E: The EDATE for these PSE's is June 1998. (For these PSE's, disregard the June 1996 EDATE specified in Section 2, of Volume III–94, dated November 1994, of the SID.)

(6) All inspection results (negative or positive) must be reported to McDonnell Douglas in accordance with the instructions contained in Section 2 of Volume III–94, dated November 1994, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) Any cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 1: Requests for approval of any PSE repair that would affect the FAA-approved

maintenance inspection program that is required by this AD should include a damage tolerance assessment for that PSE repair.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angles ACO.

Note 3: Alternative methods of compliance previously granted for amendment 39–8680, AD 93–17–09, continue to be considered as acceptable alternative methods of compliance with this amendment.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9350 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–36–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model DC–9 series airplanes and C–9 (military) airplanes. This proposal would require an inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, an inspection to detect damage of the overcenter links, and follow-on corrective actions, if necessary; and replacement or rework of the driver links. This proposal is prompted by reports of a thrust reverser door that failed to operate properly due to improperly manufactured (missing chamfers on the) driver links. The actions specified by the proposed AD are intended to prevent damage to the overcenter links due to missing chamfers on the driver links, which may result in uncommanded opening of the thrust reverser door, and subsequently, adversely affecting controllability of the airplane.

DATES: Comments must be received by June 9, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5245; fax (310) 627–5210.

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 shall 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 summarizing 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 Number 95–NM–36–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, an operator of McDonnell Douglas Model DC–9 series airplanes reported that the thrust reverser door would not close after an airplane landed. Subsequently, this same operator reported that the thrust reverser door, on the same airplane, opened partially after takeoff. Investigation revealed that driver links of the thrust reverser on this airplane were bent or broken, apparently due to a manufacturing defect. These driver links were missing chamfers, which caused damage to the adjoining overcenter links, and eventually led to the failure of the overcenter link assembly. This condition, if not corrected, could result in uncommanded opening of the thrust reverser door, which may adversely affect controllability of the airplane.

The FAA has reviewed and approved McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995, which describes procedures for a one-time visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered. For driver links that are not chamfered, this alert service bulletin describes procedures for removal of the driver link and an inspection to determine serviceability of the driver link. This alert service bulletin also describes procedures for a one-time visual inspection to detect damage of the overcenter links, and an inspection to detect damage of the drive mechanism, if necessary. Additionally, this alert service bulletin describes procedures for replacement or rework of the driver links.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, and a one-time

visual inspection to detect damage of the overcenter links, and follow-on corrective actions, if necessary; and replacement or rework of the driver links. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

The proposed AD would also require that operators submit a report of the findings of the inspection required by this proposal. The information obtained from these reports will enable the FAA to determine how widespread the problem is in the fleet and if additional action is warranted.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 892 airplanes of the affected design in the worldwide fleet. The FAA estimates that 557 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections and approximately 10 work hours per airplane to accomplish the proposed replacement/rework, and that the average labor rate is $60 per work hour. Required replacement/rework parts would cost approximately $4,100 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,651,320, or $4,760 per airplane.

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

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained 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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 airworthiness directive:

McDonnell Douglas: Docket 95–NM–36–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, as listed in McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded opening of the thrust reverser door, which may adversely affect controllability of the airplane, accomplish the following:

(a) Within 3 months after the effective date of this AD, perform a visual inspection of the actuating mechanisms of the upper and lower doors of the thrust reverser on the left and right engines to determine whether the driver links are chamfered, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995.

(1) If all the driver links are chamfered, prior to further flight, perform a visual inspection to detect damage of the overcenter links (including the bearings, races, and attaching hardware), in accordance with the alert service bulletin.

(i) If no damage to the overcenter links is detected, no further action is required by this paragraph.

(ii) If any damage to the overcenter links is detected, prior to further flight, replace the damaged overcenter links with new or serviceable overcenter links.

(iii) If any damage to the bearings, races, or attaching hardware of the overcenter links is detected, prior to further flight, perform a visual inspection to detect damage of the drive mechanism of the thrust reverser, in accordance with the alert service bulletin. If any damage to the drive mechanism is detected, prior to further flight, repair or replace the damaged parts with new or serviceable parts, in accordance with the Chapter 78 of the DC–9 Overhaul Manual.

(2) If any driver link is not chamfered, prior to further flight, remove the driver link and perform dimensional and flourescent penetrant inspections to determine serviceability of the driver link, in accordance with the alert service bulletin.

(i) If the driver link is serviceable, prior to further flight, machine chamfer the driver link, or replace the driver link with a new or serviceable part, in accordance with the alert service bulletin.

(ii) If the driver link is not serviceable, prior to further flight, replace it with a new or serviceable driver link, in accordance with the alert service bulletin.

(b) Within 3 months after the effective date of this AD, perform a visual inspection to detect damage of the overcenter links (including the bearings, races, and attaching hardware, in accordance with the McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dted February 27, 1995.

(1) If no damage to the overcenter links is detected, no further action is required by this paragraph.

(2) If any damage to the overcenter links is detected, prior to further flight, replace the damaged overcenter links with new or serviceable overcenter links.

(3) If any damage to the bearings, races, or attaching hardware of the overcenter links is detected, prior to further flight, perform a

visual inspection to detect damage of the drive mechanism of the thrust reverser, in accordance with the alert service bulletin. If any damage to the drive mechanism is detected, prior to further flight, repair or replace the damaged parts with new or serviceable parts, in accordance with the Chapter 78 of the DC–9 Overhaul Manual.

(c) Within 10 days after accomplishing the visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, as required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5245; fax (310) 627–5210; Attention: Robert Baitoo. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) As of the effective date of this AD, no person shall install, on any airplane, a driver link or overcenter link assembly of a thrust reverser that has not been previously inspected, and replaced or reworked, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9351 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 94–AWP–28]

Proposed Establishment of VOR Federal Airway V–514; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Federal Airway V–514 from the Mission Bay, CA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the Boulder City, NV, VORTAC. Pilots are presently issued several airway segments between the Mission Bay, CA, VORTAC and the Boulder City, NV, VORTAC. The establishment of this airway would provide pilots with one airway segment between these two points. This action would improve traffic flow and reduce pilot/controller workload.

DATES: Comments must be received on or before June 2, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP–500, Docket No. 94–AWP–28, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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 5:00 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: 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:

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. 94–AWP–28.'' 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 establish Federal Airway V–514 from the Mission Bay, CA, VORTAC to the Boulder City, NV, VORTAC. The establishment of this airway would improve the efficiency of the system because pilots are routinely issued several airway segments along this route. To reduce communications and eliminate potential confusion between pilots and controllers, only one airway segment would be issued between the Mission Bay, CA, VORTAC and the Boulder City, NV, VORTAC. This action would improve traffic flow and reduce pilot/controller workload. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The airway 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 ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continue 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 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–514 [New]

From Mission Bay, CA; INT Mission Bay 091°T(076°M) and Julian, CA, 185°T(170°M) radials; Julian; Thermal, CA; Twentynine Palms, CA; INT Twentynine Palms 043°T(028°M) and Goffs, CA, 200°T(185°M) radials; Goffs; INT Goffs 033°T(018°M) and Boulder City, NV, 165°T(150°M) radials; Boulder City.

* * * * *

Issued in Washington, DC, on April 7, 1995.

Nancy B. Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–9402 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 120

[Docket No. R–95–1726; FR–3593–P–01]

RIN 2529–AA71

Community Housing Resource Board Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would end the Community Housing Resource Board (CHRB) Program at 24 CFR part 120. The purpose of the proposed rule is to eliminate a program determined to be duplicative and unnecessary.

DATES: Comments due date: June 16, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Maxine Cunningham, Acting Director, Office of Fair Housing Assistance and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The CHRB Program was established in 1982 at 24 CFR part 120, under authority of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601). The purpose of the program is stated, at 24 CFR 120.5, as:

The purpose of the Community Housing Resource Board Program is to provide funding to Community Housing Resource Boards (Resource Boards) that have the responsibility of providing program implementation assistance to housing industry groups that have signed Voluntary Affirmative Marketing Agreements (VAMA) with HUD. The intent of the program is to fulfill HUD's contractual agreement to provide technical assistance to local real estate boards in achieving VAMA goals by supporting projects that improve Resource Board performance and increase their ability to effectively plan, finance, and carry out activities to assist signatory real estate boards in fully implementing the provisions of the VAMA.

Through Fiscal Year 1990, $15.274 million was appropriated and disbursed to CHRBs under a competitive grant process. Approximately 25–50 CHRBs were funded each year. In order to be eligible, projects must have been directed at one or more of the following areas:

(1) Making information public regarding the goals of fair housing and the VAMA;

(2) Assessing community fair housing needs;

(3) Assessing the effectiveness of the VAMA;

(4) Expanding minority involvement in the industry;

(5) Expanding public awareness of housing opportunities in the community; and

(6) Developing cooperative solutions to problems associated with the implementation of the VAMA.

CHRB projects include developing brochures, videos, and other outreach materials; conducting fair housing seminars and conferences to inform realtors and other housing industry professionals as well as the general public of their rights and responsibilities under the Fair Housing Law; school poster contests where children's art work depicts ''Fair Housing for All''; and scholarship programs to attract minorities into the real estate profession.

However, no funds have been appropriated for the Community Housing Resource Board (CHRB) Program since Fiscal Year (FY) 1990. There are several reasons for this. One reason is that another source of funding for the same activities was made available. The Fair Housing Initiatives Program (FHIP), established in 1987, includes an Education and Outreach Initiative. This Initiative funds education and outreach projects designed to inform members of the public concerning their rights and obligations under the provisions of fair housing laws. As private, non-profit organizations, CHRBs are eligible for funding under the FHIP.

Another reason concerns modifications to VAMAs since the initiation of the CHRB Program. In 1991 HUD began negotiations with the National Association of Realtors (NAR) for a revised VAMA. One of the major changes proposed by NAR was the elimination of the requirement to utilize

CHRBs for monitoring and implementation of VAMA activity. The new VAMA, signed by the Secretary of HUD and the NAR President in June 1992, deletes this requirement. The VAMA provides instead that local Realtor Boards ''formulate relationships with civil rights, fair housing, and other community based organizations with a substantial interest in fair housing as a conduit to meet fair housing and VAMA objectives.'' While some local Boards continue to work closely with established CHRBs in various fair housing activities, the Department no longer has a contractual agreement to support VAMA implementation activities through CHRBs.

Based on the foregoing, and as part of the renewed effort to eliminate duplicative and/or unnecessary programs, the Department has determined that the elimination of the CHRB Program is appropriate. To accomplish this end, this proposed rule would remove and reserve 24 CFR part 120.

Findings and Certifications

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. The purpose of the proposed rule is to eliminate a program determined to be duplicative and unnecessary.

Regulatory Agenda

This proposed rule was listed as Item No. 1865 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57667) pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that because this proposed rule would eliminate a program determined to be duplicative and unnecessary, the policies contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the order.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this proposed rule does not have the potential for direct impact on family formation, maintenance, and general well-being. The proposed rule would only eliminate a program determined to be duplicative and unnecessary, and as such, no further review is considered necessary.

List of Subjects in 24 CFR Part 120

Fair housing, Grant programs—housing and community development.

Accordingly, and under the authority of 42 U.S.C. 3535(d), chapter I of title 24 of the Code of Federal Regulations would be amended by removing and reserving part 120.

Dated: May 3, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 95–9329 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H–049]

RIN 1218–0099

Respiratory Protection; Proposed Rule

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of date for filing of comments by testifiers.

SUMMARY: By this document the Occupational Safety and Health Administration (OSHA) is extending the date for testifiers at the OSHA hearings to submit comments on the proposed rule from April 14, 1995 to May 15, 1995, in order to provide additional time for those testifiers submitting comments.

DATES: Testimony, comments and evidence to be submitted at the hearings must be postmarked on or before May 15, 1995. Notices of intention to appear at the hearing were due March 31, 1995. Comments for testifiers must be postmarked on or before May 15, 1995. The hearing will begin at 9:30 a.m., Tuesday, June 6, 1995 in Washington, DC.

ADDRESSES: Testimony and documentary evidence are to be submitted in quadruplicate to: Mr. Thomas Hall, OSHA Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3649, Washington, D.C. 20210; (202) 219–8615. Testimony and documentary evidence will be available for inspection and copying in the Docket Office, Room N2625 at the above address.

Written comments should be submitted in quadruplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½) in WordPerfect 5.0, 5.1, 6.0 or ASCII to: Docket Office, Docket H–049, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W. Washington, D.C. 20210; (202) 219–7894. Any information not contained on disk, e.g., studies, articles, etc., must be submitted in quadruplicate.

The hearing will be held in the auditorium of the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Proposal:* Mr. Richard Liblong, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3647, Washington, D.C. 20210; (202) 219–8151.

Hearings: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3649, Washington, D.C. 20210; (202) 219–8615.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1994, OSHA published a notice of proposed rulemaking on its respiratory protection standard (59 FR 58884 *et seq.*). The proposal is intended to update the current respirator standard to reflect changes in methodology, technology, and approach related to respiratory protection that have occurred since the existing respiratory protection standard was adopted in 1971.

A notice of the extension of the comment period and the rescheduling of the public hearing was published on January 20, 1995 (60 FR 4132 *et seq.*). This notice extended the public comment period for the proposal to April 14, 1995. The date for submitting a notice of intention to appear at the hearing to testify was extended to March 31, 1995. The public hearings were rescheduled to start on June 6, 1995. On March 23, 1995 (60 FR 15263) OSHA extended the period to submit testimony until May 15, 1995.

Extension of Date for Submitting Comments

Several parties who will be testifying at the OSHA hearings have requested an extension of time to file comments to May 15, 1995 because they need additional time to prepare comments. Since the period for submitting testimony has been extended this will not result in further delays. Accordingly OSHA is extending the time for testifiers to submit comments until May 15, 1995. The times to submit testimony and the start of the hearing remain unchanged. See the earlier **Federal Register** notices for the hearing procedures.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655).

Signed at Washington, DC., this 12th day of April, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–9434 Filed 4–14–95; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–208]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Kentucky regulatory program (hereinafter, the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Kentucky's proposed rules pertain to documents, assessment of civil penalties, and revegetation for surface and underground mining. This amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.D.T., May 2, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below.

Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

Mr. William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896′

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. General background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning Kentucky's program and program amendments can be found at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated July 19, 1994, Kentucky submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. 1304). Kentucky submitted the proposed amendment at its own initiative. The provisions of the Kentucky Administration Regulations (KAR) Kentucky proposed to amend were: 405 KAR 7:015—Documents Incorporated by Reference, 405 KAR 7:095—Assessment of Civil Penalties, 405 KAR 10:010—General Requirements for Performance Bond and Liability Insurance, 405 KAR 16:020—Contemporaneous Reclamation, 405 KAR 16:200—Revegetation for Surface Coal Mining, and 405 KAR 18:200—Revegetation for Underground Mining Operations.

OSM announced receipt of the proposed amendment in the August 9, 1994, **Federal Register** (59 FR 40503), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. 1322). Because no one requested a public hearing or meeting, none was held. The public comment period ended on September 8, 1994.

On March 2, 1995, Kentucky submitted additional revisions to 405 KAR 7:095—Assessment of Civil Penalties, and 405 KAR 16:200 and 18:200—Revegetation (Administrative Record No. 1347). 405 KAR 7:095 section 5(2) is proposed to be revised to clarify that the penalty which can be assessed under this section is in addition to the civil penalty which can be assessed under section 5(1), and to add section 7 which incorporates by reference Kentucky's January 6, 1995, ''Procedures for Assessment of Civil Penalties''. Several revisions were made to proposed 405 KAR 16:200 and 18:200—Revegetation. Proposed section 1(4) is being revised to clarify that this section does not negate the requirement at 405 KAR 16:180 and 18:180 section 3(2) that ''where cropland is intended to be the postmining land use, and where appropriate for wildlife and crop-management practices, the permittee shall intersperse the fields with tree, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.'' Proposed section 5(2)(b)2 is being revised to specifically identify the ''Kentucky Agricultural Statistics'' documents being relied upon (except for prime farmland) for average county yields of row crops. Proposed section 6 is being revised to reduce the stocking rates for trees from 450 to 300 plants per acre, and to require all permit applications submitted after February 22, 1995, which propose to plant trees and shrubs for wildlife habitat, to use species listed in Appendix A of New

Technical Reclamation Memorandum #21 and stocking densities set in section 6(2)(b)1, or optionally to use species and stocking densities recommended specifically for the permit area by the Kentucky Department of Fish and Wildlife Resources. Sections 9(3)(c) and 9(6), regarding use of productivity test areas rather than statistical evaluation of productivity, are being deleted.

III. Public Comment Procedures

Written Comments

OSM is reopening the comment period on the proposed Kentucky program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by Section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under Sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CRR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–9388 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

[OH–204; Amendment No. 54R]

Ohio Regulatory and AML Programs

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period.

SUMMARY: OSM is reopening the public comment period for a revised amendment to the Ohio permanent regulatory and Abandoned Mined Land (AML) programs (hereinafter referred to as the Ohio programs) under the Surface Mining Control and Reclamation Act of 1977. The revised amendment proposes additional changes to ten sections of the Ohio Revised Code (ORC) to clarify those sections of State law, to conform those sections to current State practices, and to make those sections equivalent to corresponding Federal laws. The proposed revisions concern lands eligible for remining, public roadways, average wage rates, deletion of obsolete language on interim continuance of underground coal mining operations, activities eligible for Small Operator Assistance, refund of excess permit fees to operators, use of the Reclamation Supplemental Forfeiture Fund for non-coal reclamation, interfund transfers, and required staff training.

This document sets forth the times and locations that the Ohio programs and the proposed amendments to those programs will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m., e.d.t. on May 17, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m., e.d.t. on May 12, 1995. Requests to speak at the hearing must be received on or before 4:00 p.m., e.d.t. on May 2, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio programs, the proposed amendments, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio programs. Information on the general background of the Ohio program submissions, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio programs, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendments

By letter dated February 7, 1992 (Administrative Record No. OH–1645), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 54 (PA 54). In PA 54, Ohio proposed to revise 13 sections of the ORC concerning a number of regulatory and AML issues. OSM announced receipt of PA 54 in the April 13, 1992, **Federal Register** (57 FR 12779), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on May 13, 1992.

By letter dated June 15, 1992 (Administrative Record No. OH–1714), OSM provided Ohio with its questions and comments about the February 7, 1992, submission of PA 54. On July 20, 1992, OSM and Ohio staff met to discuss and resolve OSM's questions and comments (Administrative Record No. OH–1746). On July 28, 1992, OSM and Ohio staff further resolved some of those issues in a telephone conversation (Administrative Record No. OH–1754).

In response to OSM's June 15, 1992, letter, Ohio submitted Revised Program Amendment Number 54 (PA 54R) by letter dated September 2, 1992 (Administrative Record No. OH–1769). PA 54R contained further revisions to seven sections of the ORC. OSM announced receipt of PA 54R in the October 28, 1992, **Federal Register** (57 FR 48765), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on November 27, 1992.

On December 16, 1992 (Administrative Record No. OH–1800), OSM and Ohio staff conducted a telephone discussion of the September 2, 1992, resubmission of PA 54R. On April 30, 1993, OSM and Ohio staff met informally to discuss the status of the amendment with respect to the State's legislative process.

In the June 11, 1993, **Federal Register** (58 FR 32611), the Director of OSM announced his decision to defer Ohio PA 54R with the exception of the Director's approval of one proposed change at ORC section 1513.02(F)(3) which the Ohio General Assembly was likely to pass in its current form. The Director made this decision because the Ohio Legislative Service Commission had not yet drafted the final statutory language on which PA 54R would ultimately be based and because that language would not be available for review by OSM within the foreseeable future.

By letter dated March 31, 1995 (Administrative Record No. OH–2107), Ohio submitted the final version of PA 54R. This final version contains the statutory changes approved by the Ohio General Assembly in Senate Bill 180 and in House Bill 414. The two bills were signed by the Ohio Governor on December 23, 1992, and December 27, 1994, respectively. The revised statutes went into effect on March 24, 1993, and March 27, 1995, respectively.

Ohio's March 31, 1995, final submission of PA 54R reiterates many of the statute changes previously proposed in PA 54 and PA 54R. The new submission also proposes new changes to ten sections of the ORC. OSM discussed the previously proposed changes in the April 13 and October 28, 1992, **Federal Register** documents concerning the previous submissions of PA 54 and PA 54R. Therefore, only newly proposed substantive changes to Ohio's coal regulatory and AML program statutes are discussed below. Statute changes which solely concern Ohio's non-coal regulatory program are outside the jurisdiction of OSM and are not discussed below. Newly proposed changes to paragraph notations and other nonsubstantive wording changes which are intended solely to clarify the statutes are also not discussed below.

(1) Lands Eligible for Remining

ORC section 1513.01 paragraph (F): Ohio is adding this paragraph to define the term ''lands eligible for remining'' to mean those lands that otherwise would be eligible for expenditure of AML reclamation funds under paragraph (C)(1) of ORC section 1513.37.

ORC section 1513.07 paragraph (E)(3)(b): Ohio is adding this new paragraph to provide that, until October 1, 2004, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining shall not prevent issuance of a coal mining permit to the person holding the remining permit. An unanticipated event or condition is one that was not contemplated by the applicable permit.

ORC section 1513.16 paragraph (A)(19)(b): Ohio is adding this new paragraph to provide that coal mining permits on lands eligible for remining shall require the operator to assume the responsibility for successful revegetation of the remined area for two full years after the last augmented seeding, fertilizing, or irrigation.

ORC section 1513.37 paragraph (C)(3): Ohio is adding this new paragraph to provide that surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for AML reclamation funding under this section of the ORC after the release of the mining operation's performance bond. If the performance bond for the remining operation is forfeited and is not sufficient for adequate reclamation of the site, Ohio may use AML reclamation funding under this section to augment the bond.

(2) Public Roadways

ORC section 1513.01 paragraph (H)(2): Ohio is revising this paragraph to delete the existing exclusion of public roadways from the areas covered by the definitions of ''operation'' or ''coal mining operation.''

(3) Average Wage Rates

ORC section 1513.02 paragraph (J): Ohio is revising this paragraph to provide that the State will use information from non-coal as well as coal mining and reclamation operations in calculating average wage rates. The newly calculated average wage rates shall apply to reclamation performed for Ohio on both coal and non-coal mining sites.

(4) Deletion of Obsolete Language

ORC section 1513.07 paragraph (A)(1): Ohio is deleting additional obsolete language from this paragraph concerning interim continuance of underground coal mine operations which were in effect prior to September 1, 1981.

(5) Activities Eligible for the Small Operator's Assistance Program (SOAP)

ORC section 1513.07 paragraph (B)(4)(a) and (b): Ohio is revising these paragraphs to expand the types of activities related to permit applications which qualified laboratories can perform for permit applicants under contracts funded by Ohio's SOAP. Qualifying activities include determination of probable hydrologic consequences, development of cross-section maps and plans, geologic drilling and reporting, collection and reporting of archaeological information, performing pre-blast surveys, and collection of information on protection of fish and wildlife habitats. The coal mine operator shall reimburse the State for the costs of SOAP-assisted services if the operator's actual and attributed coal production for all locations exceeds 300,000 tons during the 12 months immediately following the date of issuance of the mining permit.

(6) Refund of Excess Permit Fees to Operators

ORC 1513.10: In February 7, 1992, submission of PA 54, Ohio proposed to repeal this existing section which currently authorizes Ohio to refund excess permit fees to the operator for acreage permitted but not subsequently affected. In its March 31, 1995, cover letter of the final version of PA 54R, Ohio noted that it is withdrawing its proposal to repeal this section.

ORC 1513.07 paragraph (B)(1): Ohio is deleting previously proposed language in this paragraph which would have provided that all excess permit fees collected by the State shall be deposited in the State Treasury to the credit of the Coal Mining Administration and Reclamation Reserve Fund created in ORC section 1513.181.

(7) Use of Reclamation Supplemental Forfeiture Fund for Non-Coal Reclamation

ORC section 1513.18 paragraph (D): In the February 7, 1992, submission of PA 54, Ohio proposed to add this new paragraph (D) which, in part, would have allowed the Division to use funds from the Reclamation Supplemental Forfeiture Fund to reclaim areas which were affected by mining under non-coal surface mining permits issued under ORC Chapter 1514 but which the operator did not adequately reclaim. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing this proposed language concerning non-coal reclamation from new paragraph (D).

ORC 1514.06 paragraph (G): Ohio is proposing to revise this paragraph in lieu of the previously proposed revision discussed above which Ohio is withdrawing from ORC section 1513.18 paragraph (D). The revision to ORC section 1514.06 paragraph (G) would provide that Ohio may expend money from the Reclamation Supplemental Forfeiture Fund or from the Surface Mining Administration Fund to complete reclamation on land affected by non-coal surface mining operations on which an operator has defaulted.

ORC section 1513.18 paragraph (D): Ohio is adding a statement in this paragraph concerning the State's priority for management of the Reclamation Supplemental Forfeiture Fund, including the selection of projects and the transfer of moneys. That priority shall be to ensure that sufficient moneys are available for reclamation of areas that an operator has affected under a coal mining and reclamation permit issued after September 1, 1981, and which the operator has failed to reclaim.

(8) Interfund Transfers

ORC 1513.181 paragraph (B): In its September 2, 1992, submission of PA 54R, Ohio proposed to add this new paragraph to provide the State with additional flexibility to manage the funding of the Coal Mining Administration and Reclamation Reserve Fund and the Reclamation Supplemental Forfeiture Fund. If, at the close of the fiscal year, the former fund's balance is below one million dollars, the State could have transferred funds of up to $500,000 per fiscal year from the Coal Mining Administration and Reclamation Reserve Fund to the Reclamation Supplemental Forfeiture Fund. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing this proposal language.

(9) Required Staff Training

ORC section 1513.34: Ohio is revising this section to delete the requirements for minimum hourly amounts of initial and annual follow-up training for certain staff positions. In lieu of a minimum of 80 hours of training, Ohio shall provide adequate training and education, during their probationary periods, for all persons appointed as inspection officers. In lieu of a minimum of 40 hours of annual training, Ohio shall provide, on a regular basis as funding allows, continuing education and training as necessary for all inspection officers, district supervisors, and enforcement personnel.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio programs.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.d.t. on May 2, 1995. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–9389 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NC–061–1–6815; FRL–5191–3]

Proposed Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 12, 1993, the State of North Carolina through the North Carolina Department of Environment, Health, and Natural Resources submitted a maintenance plan and a request to redesignate the Charlotte-Gastonia area from nonattainment to attainment for ozone (O_3). Subsequently on December 16, 1994, and January 6, 1995, the State submitted supplementary information which included refined modeling and identification of the future reductions needed to maintain the national ambient air quality standard (NAAQS) for O_3. The Charlotte-Gastonia O_3 nonattainment area includes Mecklenburg and Gaston Counties. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such changes. In this action, EPA is proposing to approve the State of North Carolina's submittal because it will meet the maintenance plan and redesignation requirements. The approved maintenance plan will become a federally enforceable part of North Carolina's State Implementation Plan (SIP) for the moderate nonattainment area. In this action, EPA is also proposing to approve the State of North Carolina's 1990 baseline emissions inventory because it meets EPA's requirements regarding the approval on baseline emission inventories.

DATES: To be considered, comments must be received by May 17, 1995.

ADDRESSES: Written comments on this action should be addressed to Kay Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

State of North Carolina, Air Quality Section, Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, Raleigh, North Carolina 27626.

Environmental Management Division, Mecklenburg County Department of Environmental Protection, 700 N. Tryon Street, Charlotte, North Carolina 28202–2236.

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4221. Reference file NC–061–1–6815.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C), EPA designated Mecklenburg County of the Charlotte-Gastonia area as nonattainment by operation of law with respect to O_3 because the area was designated nonattainment immediately before November 15, 1990. The nonattainment area was expanded to include Gaston County per section 107(d)(1)(A)(i) (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.318.) The area was classified as moderate.

The moderate nonattainment area more recently has ambient monitoring data that show no violations of the O_3 NAAQS, during the period from 1990 through 1993. Therefore, in an effort to comply with the Clean Air Act as amended in 1990 (CAA) and to ensure continued attainment of the NAAQS, on November 12, 1993, the State of North Carolina submitted an O_3 maintenance plan and requested redesignation of the area to attainment with respect to the O_3 NAAQS. On January 24, 1994, Region 4 determined that the information received from the State constituted a complete redesignation request under the general completeness criteria of 40 CFR 51, appendix V, sections 2.1 and 2.2. Subsequently, on December 16, 1994, and January 6, 1995, the State submitted additional information that refined the modeling and clarified the future measures needed to ensure maintenance of the O_3 NAAQS.

The North Carolina redesignation request for the Charlotte-Gastonia moderate O_3 nonattainment area meets the five requirements of section 107(d)(3)(E) for redesignation to attainment. The following is a brief description of how the State of North Carolina has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. The Area Must Have Attained the O_3 NAAQS

The State of North Carolina's request is based on an analysis of quality assured ambient air quality monitoring data, which is relevant to the maintenance plan and to the redesignation request. Most recent ambient air quality monitoring data for calendar year 1990 through calendar year 1993 show an expected exceedance rate of less than 1.0 per year of the O_3 NAAQS in the nonattainment area (*See* 40 CFR 50.9 and appendix H). The area has continued to demonstrate attainment to date. Because the nonattainment area has complete quality-assured data showing no violations of the O_3 NAAQS over the most recent consecutive three calendar year period, the area has met the first component of attainment of the O_3 NAAQS. The State of North Carolina has also met the second component of attainment of the O_3 NAAQS by committing to continue monitoring the moderate nonattainment area in accordance with 40 CFR part 58.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). The approved control strategy did not result in attainment of NAAQS for O_3 prior to the 1990 CAA. Additionally, the amended CAA revised section 182(a)(2)(A), 110(a)(2) and, under part

D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA reviewed the North Carolina SIP and ensures that it contains all measures due under the amended CAA prior to or at the time the State of North Carolina submitted its redesignation request.

Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D. The USEPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the Act that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation of the area is disapproved, the State remains obligated to fulfill those requirements.

A. Section 110 Requirements

Although section 110 was amended by the CAA, the North Carolina SIP for the moderate nonattainment area meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

B. Part D Requirements

Before the moderate nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for O_3 nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of title I, specific requirements of subpart 2 may override subpart's general provisions (57 FR 13501 (April 16, 1992)). The Charlotte-Gastonia nonattainment area is classified as moderate (See 56 FR 56694, codified at 40 CFR 81.318). The State of North Carolina submitted the request for redesignation of the moderate nonattainment area on November 12, 1993. Therefore, in order to be redesignated to attainment, the State of North Carolina must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is also required to meet the applicable requirements of subpart 2 of part D, specifically sections 182(a) and (b).

a. *Subpart 1 of Part D.* Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of the Charlotte-Gastonia nonattainment area, the State has satisfied all of the section 172(c) requirements necessary for the area to be redesignated upon the basis of the November 12, 1993, redesignation request.

EPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement (with parallel requirements for a moderate ozone nonattainment area under subpart 2 of part D, due November 15, 1993) was not applicable as the State of North Carolina submitted this redesignation request on November 12, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACM) beyond what may already be required in the SIP are no longer necessary, since no earlier date was set for these measures and as RFP was not due until November 15, 1993.

The section 172(c)(3) emissions inventory requirement has been met by the submission of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1), which EPA is proposing to approve in this action.

The State of North Carolina has a fully-approved NSR program meeting the requirements of section 182(b)(5). Therefore, the section 172(c)(5) requirement has been met.

Section 176(c) of the CAA requires states to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable state SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity''). Section 176 further provides that the conformity revisions to be submitted by states must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the state revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the implementation of Title I informed states that its conformity regulations would establish a submittal date [*see* 57 FR 13498t 13557 (April 16, 1992)].

The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that states adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of North Carolina is required to submit SIP revisions containing transportation and general conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994 and December 1, 1994, respectively. Because the deadlines for these submittals had not come due at the time of the submission of the redesignation request, they are not applicable requirements under section 107(d)(3)(E)(V) and, thus, do not affect approval of this redesignation request. The State of North Carolina submitted a SIP revision which contains the required conformity provisions on March 3, 1995.

b. *Subpart 2 of Part D—Section 182.* The CAA was amended on November 15, 1990, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. EPA was required to classify O_3 nonattainment areas according to the severity of their problem. On November 6, 1991 (56 FR 56694), the Charlotte-Gastonia area was designated as moderate O_3 nonattainment. Because the Charlotte-Gastonia area is a moderate O_3 nonattainment area, it is required to have met the requirements of sections 182(a), (b) and (f) of the CAA. EPA has analyzed the SIP and determined which requirements have been met and for which requirements further action is required. In the instances where further action is required, SIP revisions meeting those requirements must be fully approved in order for EPA to find that all the applicable requirements of the CAA

have been met. Thus, final approval of this redesignation is contingent upon the final approval of the additional SIP submittals described below.

(1) Section 182(a)(1)—Emissions Inventory

Section 182(a)(1) of the CAA required an inventory of all actual emissions from all sources, as described in section 172(c)(3) to be submitted by November 15, 1992. On November 13, 1992, the State submitted an emission inventory for the Charlotte-Gastonia area. EPA is proposing to approve the inventory in this notice. Final approval of this redesignation is contingent on final approval of the emissions inventory.

(2) Section 182(a)(2), 182(b)(2)—Reasonably Available Control Technology (RACT)

Subsequent to the 1977 Clean Air Act Amendments, Mecklenburg County was designated as not meeting the O_3 NAAQS on March 3, 1978 (43 FR 8962). The State was subsequently required to revise its O_3 SIP for this area to meet the requirements of section 110(a)(2) and part D of the 1977 Clean Air Act. On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). On December 31, 1987, EPA deemed that this control strategy had not resulted in the attainment of the NAAQS for O_3 in the Charlotte-Gastonia area. Consequently, Greer C. Tidwell, Region 4 Regional Administrator, sent a letter to James G. Martin, Governor of North Carolina, on May 26, 1988. This letter, pursuant to section 110(a)(2)(H) of the 1977 CAA, notified North Carolina that the SIP was substantially inadequate to achieve the NAAQS for O_3 in Charlotte and called upon the State to revise the SIP.

The 1990 CAA amended section 182(a)(2)(A), and Congress statutorily adopted the requirement that O_3 nonattainment areas correct their deficient RACT rules for O_3 (RACT Fix-ups). Areas designated nonattainment before amendment of the CAA and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT Fix-ups requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT regulations as required under pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Charlotte was previously subject to RACT requirements for ozone. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

The 1990 CAA also amended section 182(b)(2) which required RACT on all major sources of VOCs for O_3 nonattainment areas designated moderate and above (RACT Catch-ups) by November 15, 1992. The RACT Catch-ups provision required the State to submit a revision to the SIP to implement RACT on: (1) Each category of VOC sources in the area covered by a control technique guideline (CTG) document issued between the enactment of the 1990 CAA and the date of attainment (which is not an applicable requirement for purposes of this redesignation since the due date for these rules is November 15, 1994, a date after the submission of the redesignation request); (2) all VOC sources in the area covered by any CTG issued before the date of the 1990 CAA; and (3) all other major stationary sources of VOCs that are located in the area.

North Carolina submitted SIP revisions to correct deficiencies in the VOC regulations to EPA on September 21, 1989, January 14, 1991, and April 29, 1991, all prior to the May 15, 1991, deadline. Additionally, revisions to the Mecklenburg County local program regulations were submitted on August 13, 1991, and July 19, 1993. A **Federal Register** notice approving these SIP revisions was published on June 23, 1994 (59 FR 32365). The approval became effective on August 22, 1994.

North Carolina failed to meet the November 15, 1992, deadline date for RACT catch-ups and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal Implementation Plan (FIP) VOC regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on January 7, 1994, prior to the July 15, 1994, deadline. Because the revisions addressed all RACT Catch-up requirements and were found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Action to give final approval of the North Carolina RACT Catch-up provisions will be taken at the time or prior to final approval of this redesignation.

(3) Section 182(a)(3)—Emissions Statements

Section 182(a)(3) of the CAA required that the SIP be revised by November 15, 1992, to require stationary sources of oxides of nitrogen (NO_X) and VOCs to provide the State with a statement showing actual emission each year. North Carolina failed to meet the November 15, 1992, deadline date for Emissions Statements and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal Implementation Plan (FIP) VOC regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on December 17, 1993, prior to the July 15, 1994, deadline. Because the revision addressed all the Emission Statement requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina Emission Statement regulation will be taken at the time or prior to final approval of this redesignation. Approval of this redesignation is contingent upon approval of the emission statement regulation.

(4) Section 182(b)(1)—15% Progress Plans

Section 182(b)(1) of the CAA required states to submit a revision to the SIP by

[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, ''Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing Control Technology Guidelines (CTGs).

November 15, 1993, to provide for VOC emission reductions by November 15, 1996, of at least 15% from baseline emissions accounting for any growth in emissions after the date of enactment of the CAA. The State failed to submit the required revisions and as a result, on January 28, 1994, EPA issued a finding letter notifying North Carolina of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the FIP 15% regulations for this area as required by section 110(c)(1). However, the letter acknowledges the submittal of this redesignation request to attainment and stated that if the redesignation request to attainment is approved then requirements for a 15% plan SIP will be unnecessary for the Charlotte-Gastonia area. Therefore, upon approval of this redesignation request, the sanctions clock will stop. As the requirement to submit a 15% plan did not come due until November 15, 1993, the 15% plan requirement is not an applicable requirement for purposes of the evaluation of this redesignation request.

(5) Section 182(b)(3)—Stage II

Section 182(b)(3) of the CAA required moderate areas to implement Stage II gasoline vapor recovery systems unless and until EPA promulgated onboard vapor recovery (OBVR) regulations. On January 24, 1994, EPA promulgated the OBVR rule, and, as section 202(a)(b) of the CAA provides that once the rule is promulgated, moderate areas are no longer required to implement Stage II. Thus, the Stage II vapor recovery requirement of section 182(b)(3) is no longer an applicable requirement.

(6) Section 182(b)(4)—Motor Vehicle Inspection and Maintenance (I/M)

The CAA required all moderate and above areas to revise the SIP to include provisions necessary to provide for a vehicle inspection and maintenance program. The State failed to submit the required revisions and as a result, on January 15, 1993, EPA issued a finding letter notifying North Carolina of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the FIP I/M regulations for this area as required by section 110(c)(1). However, on July 19, 1993, the State submitted revisions to their I/M regulations, prior to the July 15, 1994, deadline. Because the revision addressed all the I/M requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina I/M regulation will be taken at the time or prior to final approval of this redesignation. The approval of this redesignation is contingent upon final approval of the I/M regulation.

(7) Section 182(b)(5)—New Source Review (NSR)

The CAA required all classified nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions of VOCs compounds will not result from any new or major source modifications and a general offset rule. The State submitted a NSR rule on January 7, 1994, to incorporate VOC and oxides of nitrogen (NO_X) permit review requirements for new and modified sources in North Carolina's O_3 nonattainment areas. The revised permit requirements meet new offset ratios and additional provisions for moderate O_3 nonattainment areas. EPA approved this rule on October 31, 1994 (59 FR 54388), giving North Carolina a fully approved NSR program. (EPA notes that under the policy announced in the memorandum, ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' dated October 14, 1994, from Mary D. Nichols to Air Division Directors I–X, approval of the NSR submittal is not necessarily required for approval of a redesignation.)

(8) Section 182(f)—Oxides of Nitrogen (NO_X) Requirements

Section 182(f) of the CAA requires states with areas designated nonattainment for O_3 and classified as moderate and above to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of volatile organic compounds (VOCs). These control requirements, NO_X RACT and NO_X NSR, were to be submitted to EPA in a SIP revision by November 15, 1992. EPA adopted a policy pursuant to section 110(k)(4) of the CAA to conditionally approve NO_X RACT SIPs which committed to provide EPA with specific enforceable measures within one year of the date of approval of the commitment. EPA's committal SIP policy was challenged in *Natural Resources Defense Council* v. *Browner*—in the United States Court of Appeals for the District of Columbia Circuit. In a full Opinion, dated May 6, 1994, the Court found that EPA's conditional approval interpretation exceeded the EPA's statutory authority, but concluded that ''EPA properly extended'' to November 15, 1993, the deadline for submittal of fully enforceable NO_X RACT SIPs. As a result of this court case, the deadline to submit NO_X RACT rules was November 15, 1993. Therefore, because that date is after the State submitted the redesignation request, NO_X RACT is not an applicable requirement for this redesignation request.

3. The Area Has a Fully Approved SIP Under Section 110(k) of the CAA

Based on the approval of provisions under the pre-amended CAA and EPA's prior approval of SIP revisions under the amended CAA, EPA has determined that North Carolina will have a fully approved O_3 SIP under section 110(k) for the moderate nonattainment area if EPA approves SIP submissions regarding the emissions inventory, emission statements, VOC RACT catch-ups, and I/M. Final action will be taken prior to or at the same time as final approval of this redesignation.

4. The Air Quality Improvement Must Be Permanent and Enforceable

Several control measures have come into place since the Charlotte-Gastonia nonattainment area violated the O_3 NAAQS. Of these control measures, the reduction of fuel volatility from 10.6 psi in 1987 to less than 9.0 psi in 1990, and finally to less than 7.8 psi beginning with the summer of 1992, as measured by the Reid Vapor Pressure (RVP), and fleet turnover due to the Federal Motor Vehicle Control Program (FMVCP) produced the most significant decreases in VOC emissions. The reduction in VOC emissions due to the mobile source regulations from 1987 to 1990 is 26.01 tons per day (29.63%). The VOC emissions in the base year are not artificially low due to a depressed economy.

5. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years

after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

In this notice, EPA is proposing approval of the State of North Carolina's maintenance plan for the Charlotte-Gastonia nonattainment area because EPA finds that North Carolina's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 13, 1992, the State of North Carolina submitted comprehensive inventories of VOC, NO_X , and CO emissions from the Charlotte-Gastonia nonattainment area. The inventory included biogenic, area, stationary, and mobile sources for 1990.

The State of North Carolina submittal contains the detailed inventory data and summaries by county and source category. Finally, this inventory was prepared in accordance with EPA guidance. A summary of the base year inventory is included in this notice. This notice proposes approval of the base year inventory for the Charlotte-Gastonia area.

1990 CHARLOTTE/GASTONIA TYPICAL SUMMER DAY EMISSIONS TONS PER DAY (TPD)

Category	NO_X	VOC	CO
Point	31.25	33.99	35.27
Area	4.92	67.59	25.00
Nonroad	15.52	19.38	138.45
Biogenic	2.78	54.41	0.0
Mobile	61.64	50.81	371.26
Total	116.11	226.18	569.98

B. Demonstration of Maintenance—Urban Airshed Modeling

a. Proposed Control Strategy

The plan must demonstrate maintenance for at least 10 years. The North Carolina plan demonstrates maintenance out to the year 2005 through the use of the Urban Airshed Model (UAM). The revised modeling runs, submitted in the December 16, 1994 supplement, were completed for three meteorological episodes during which the area experienced exceedances of the ozone standard. These runs corrected and completed the modeling submitted in the original November 1993 submittal pursuant to EPA comments. Base and future case modeling was done according to guidelines presented in the EPA document ''Guideline for Regulatory Application of the Urban Airshed Model'' in performing the modeling analysis. The future case modeling includes the interim year 1999 and the 10 year maintenance year of 2005. This modeling analysis did not assume any benefit from the NSR program.

Modeling for all three episodes indicated that to predict all grid cells below .124 parts per million (ppm) for both 1999 and 2005, additional controls would be needed. The analysis of control options showed that a further reduction of VOC emissions of 25 percent demonstrated a 1 part per billion (ppb) reduction of ozone and a further reduction of VOC emissions of 50 percent demonstrated a 2 ppb or less reduction in ozone. By contrast, a 35 percent further reduction of NO_X resulted in a 10–12 ppb reduction in ozone. Therefore, North Carolina concluded that the NO_X controls will be more effective in the maintenance of the standard in the Charlotte/Gastonia area, and, hence, the selected strategy primarily consists of controls of NO_X emissions. The revised modeling and the identified control measures will be the subject of a public hearing on April 19, 1995. The selected control strategy includes the following measures:

- Reformulated Gasoline to meet the Federal Phase I and Phase II standards to begin in 1999 in Mecklenburg, Gaston, Union, Cabarrus, Lincoln, Rowan, and Iredell Counties;
- Clean Fuel Fleet Program, including the schedule for implementation as specified in the CAA for areas classified serious and above, in the same seven counties previously listed;
- Burning bans in the seven counties for the months of June, July, and August;
- Control of NO_X for the Transcontinental Natural Gas Pumping Station in Iredell County for the months of June, July, and August; and
- Additional 10 percent control beyond the control being applied to meet title IV NO_X requirements on Duke Power's Allen and Riverbend facilities in Gaston County for the months of June, July, and August.

The State will also take comment at the public hearing on the feasibility of substituting an enhanced I/M program for the reformulated gasoline measure. The modeling results indicate that such substitution would show maintenance of the standard. The strategy represents a combination of mobile and stationary source controls that provide a 25 ton per day reduction in NO_x emissions resulting in a 2–6 ppb reduction in ozone, depending upon the meteorological episode. The modeling for all three meteorological episodes for both 1999 and 2005 with the above described control strategy showed attainment of the O_3 standard. The State has committed to develop regulations necessary to implement a control strategy that will demonstrate maintenance of the ozone standard through 2005, and submit those regulations to EPA for approval into the maintenance plan.

b. Request for Comments

Consistent with the notice of public hearing for the redesignation of the Charlotte-Gastonia ozone nonattainment area, the State will take comment on the aforementioned control strategy, that strategy with enhanced I/M as a substitute for the reformulate gasoline measure, and any combination of those control measures. EPA invites comment on the following scenarios:

(a) Adoption and implementation in 1999 of the five measures as detailed above;

(b) Adoption and implementation in 1999 of the five measures as detailed above with enhanced I/M substituted for the reformulated gasoline program;

(c) Adoption and implementation in 1999 of the aforementioned controls on the Transcontinental Natural Gas Pumping Station in Iredell County and the additional 10 percent control beyond the title IV requirements on Duke Power's Allen and Riverbend facilities in Gaston County; or

(d) Approval of the request as demonstrating maintenance with no additional VOC or NO_x controls.

Scenarios a and b both involve a combination of measures that results in the modeling showing attainment of the standard in all grid cells. Scenario a, however, involves the inclusion by the State in the maintenance plan of regulations to require the sale of reformulated gasoline beginning in 1999. EPA specifically requests comment regarding the issue of whether such regulations may be adopted or enforced in maintenance or attainment areas by a state in light of the preemption provisions of section 211(c)(4) of the CAA.

Scenarios c and d, on the other hand, do not provide for the adoption of control measures that result in the modeling showing attainment of the standard in all grid cells. EPA requests comment as to whether, in light of the reasons described below, a maintenance plan based on either scenario c or d should be approved for the Charlotte area. Under scenario d, no additional controls approved for maintenance, the modeling shows 3 to 4 grid cells out of 625 over the standard. The range of predicted values above .124 ppm for this scenario is .125 ppm to .129 ppm.

Although the ozone modeling guidance generally requires that modeling results show attainment of the standard in all grid cells, it does allow alternative methods for demonstrating attainment on a case by case basis. EPA believes that the modeling demonstration submitted by the State of North Carolina is sufficiently conservative so that it is likely that the O_3 NAAQS will continue to be maintained in the Charlotte area without the State having to invoke costly additional measures adopted in the maintenance standard. That belief is based on the combination of the following factors:

(1) North Carolina has five years of air quality data showing attainment of the standard.

(2) The maintenance plan contains pre-adopted measures and a violation would trigger reduction in emissions by the following ozone season.

(3) The ozone standard is a statistically based NAAQS that allows one exceedance per year.

(4) North Carolina has done extensive modeling to gain an understanding of the creation of ozone in the Charlotte area and has generally made conservative assumptions in selecting modeling inputs.

(5) The uncertainties in the biogenic emission inventory and other modeling inputs are well within the range of the 2–3 ppb needed to reach the .124 ppm in all grid cells.

(6) The modeling did not account for lower VOC, NO_X and O_3 boundary conditions expected when SIP attainment control programs have been implemented in many areas throughout the United States.

Therefore, EPA believes the area is eligible for redesignation with the existing control strategy and the contingency plan discussed below.

The emissions budget for conformity is contingent upon the control strategy selected pursuant to the April 19, 1995, public hearing. That budget will be published in any notice that takes final action approving this redesignation request.

C. Verification of Continued Attainment

Continued attainment of the O_3 NAAQS in the nonattainment area depends, in part, on the State of North Carolina's efforts toward tracking indicators of continued attainment during the maintenance period. The primary trigger of the contingency plan will be a violation of the ambient air quality standard for ozone. The trigger date will be the date that the State certifies to EPA that the data is quality assured, which will occur no later than 30 days after the recorded violation. The secondary trigger of the contingency plan will be an exceedance of the ozone standard that would indicate a violation could be imminent. This trigger will be activated within 30 days of the State finding the exceedance.

Once either the primary or the secondary trigger is activated, the State Air Quality Section will commence analysis, including updated modeling as necessary, to determine what control measures will be required to bring the area back into attainment. By May 1 of the year following the ozone season in which the primary trigger has been activated, the State will complete the analysis and adopt stationary control measures indicated by the analysis, using the emergency rule process as necessary. The time frame for adopting measures other than for stationary sources will be based on the time frames in section 181(b) of the CAA. Where only the secondary trigger has been activated, the State will complete the analysis and begin the regulatory adoption process for any measures that are needed by May 1 of the following year.

D. Contingency Plan

The level of VOC and NO_X emissions in the nonattainment areas will largely determine its ability to stay in compliance with the O_3 NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, the State of North Carolina has provided contingency measures with a schedule for implementation in the event of a future O_3 air quality problem. The actual measures will be determined from the analysis process described in the Verification of Continued Attainment portion of this notice. The measures analyzed will include RACT or greater level control for NO_X and VOC sources, Stage II vapor control for gasoline dispensing facilities, enhancements to the I/M program, transportation control measures, and any other appropriate measures. EPA finds that the contingency plan provided in the State of North Carolina's submittal meets the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State of North Carolina has agreed to submit a revised maintenance SIP eight years after the nonattainment area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

6. Proposed Action

EPA proposes approval of the State of North Carolina's request to redesignate to attainment the Charlotte-Gastonia O_3 nonattainment area and maintenance plan contingent upon a full and final approval of the outstanding requirements discussed above (emission statement, RACT catch-ups, emission inventory and I/M). EPA also proposes to approve the 1990 baseyear inventory for the Charlotte-Gastonia nonattainment area.

The OMB has exempted these actions from review under Executive Order 12866.

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

Under 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.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 5, 1995.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 95–9248 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5192–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List; Intent To Delete Pesses Chemical Co., TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Pesses Chemical Company Site from the National Priorities List: Request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pesses Chemical Company Site (Site) from the National Priorities List (NPL), 40 CFR part 300, Appendix B, and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Texas, through the Texas Natural Resource Conservation Commission (TNRCC), have determined that all appropriate actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that response activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: The EPA will accept comments concerning its proposal to delete until May 17, 1995.

ADDRESSES: Comments may be mailed to: Ms. Olivia Rodriguez-Balandran, Community Relations Coordinator, U.S. EPA, Region 6 (6H–MC), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6584 or, 1–800–533–3508.

Comprehensive information on the Site is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Record for this Site is maintained in EPA's Region 6 Library and is available for viewing from 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The address for the Region 6 Library office is: U.S. EPA, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 or 665–6427.

The Administrative Record also is available for viewing at the Pesses Chemical Company Site information repositories located at:

Fort Worth Public Library, Seminary South Branch, 501 East Bolt Street, Fort Worth, Texas 76110, (817) 926–0215.

Texas Natural Resource Conservation Commission, 12118 North IH35, Building D, Room 190, Austin, Texas 78753, (512) 239–2920.

Certain background information, including EPA's proposal to delete the Site from the NPL and the basis for EPA's proposal, is available for viewing at the following additional Pesses Chemical Company Site information repositories. A complete copy of the Administrative Record is not maintained at these locations:

City Secretary's Office, Fort Worth City Hall, 1000 Throckmorton, Fort Worth, Texas 76102.

Fort Worth Central Library, 300 Taylor Street, Fort Worth, Texas 76102.

Texas Christian University, Mary Couts Burnett Library, 2800 University Drive, Fort Worth, Texas 76109.

FOR FURTHER INFORMATION CONTACT: Mr. Earl G. Hendrick, U.S. EPA, Region 6 (6H–SC), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8519.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pesses Chemical Company Site, Fort Worth, Tarrant County, Texas, (Site) from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments concerning its intent to delete for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of the Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i) Responsible parties or other persons have implemented all appropriate response actions required; or,

Section 300.425(e)(1)(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL.

In addition, deletion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

Upon determination that at least one of the criteria described in § 300.425(e) has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of the Site:

(1) EPA Region 6 has recommended deletion and has prepared the relevant documents.

(2) The State of Texas concurred by letter dated June 2, 1994, with the deletion decision.

(3) Concurrent with this National Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period on the deletion package, which starts with the publication of this notice in the **Federal Register**.

(4) The Region has made all relevant documents available in the Regional Office and local Site and State of Texas information repositories.

These procedures have been completed for the Site. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day public comment period and the availability of the Notice of Intent to Delete. The public is asked to comment on EPA's proposal to delete the Site from the NPL; all critical documents needed to evaluate EPA's decision are included in the information repositories and are included in the deletion docket.

Upon completion of the 30-day public comment period, the EPA Regional Office will evaluate these comments before the final decision to delete. The Region will prepare a Responsiveness Summary, if necessary, which will address concerns presented in the comments received during the public comment period. Any Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are welcome to contact the EPA Regional Office to obtain a copy of the Responsiveness Summary, if any. If EPA still determines that deletion from the NPL is appropriate after receiving public comments, a final notice of deletion will be published in the **Federal Register**. The deletion of the Site does not actually occur until the Notice of Deletion is published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for deleting the Pesses Chemical Company Site from the NPL.

The Site is located at 2301 South Main Street, Fort Worth, Tarrant County, Texas. The Site is in a light industrial and commercial area. The 4.2 acre Site was used to reclaim cadmium and nickel from dry-cell batteries and metal sludge. The Pesses Company, under the name Pesses S'West, conducted reclaiming activities from approximately June 1979 until January 1981.

In April 1983, EPA removed 3,400 cubic yards of contaminated soil, metal sludge, drummed material, and debris from the Site and shipped the waste to Chemical Waste Management, in Port Arthur, Texas. The Site was proposed for inclusion on the NPL on October 15, 1984, (49 FR 40320) with a score of 28.86, due mainly to the potential migration of heavy metals via airborne dust and surface water runoff from the Site. The Site was finalized on the NPL on June 10, 1986, (51 FR 21054). EPA assigned the Texas Water Commission, predecessor to the Texas Natural Resource Conservation Commission (TNRCC), as the lead agency for remedial activities for the Site. The Remedial Investigation/Feasibility Study (RI/FS) was performed between December 1987 and October 1988. Although the imminent health threat had been alleviated by the EPA Emergency Response Team removal action conducted in April 1983, the RI determined that residual contamination of cadmium and nickel in the soils (to a depth of two to three feet over most of the Site) and in the metal warehouse and process equipment posed health and environmental threats requiring remediation. Concentrations of cadmium averaged above 300 milligrams per kilogram (mg/kg) of soil. Dust in some process equipment contained as much as 59 percent cadmium and 26 percent nickel. No organic contaminants were found at concentrations which posed health or environmental impacts. No asbestos was detected. Because the ground water is 380 feet below low permeability clay, shale and shaley limestone, and the maximum depth of Site contaminants was less than 13 feet, EPA has determined that the ground water was not and will not, in the future, be affected by the Site.

The EPA Regional Administrator signed the Record of Decision (ROD) for the Site on December 22, 1988, selecting in-situ stabilization of the contaminated soils and Site contaminants, plus capping as the remedy. EPA selected this remedy because it eliminates the principal threat posed by the Site conditions by eliminating the possibility of human exposure with the metals of concern and preventing the spread of contaminants.

During the preparation of the bid specifications for the remedial action, EPA recognized that the south field was not wide enough in some areas to support a four foot thick protective clay cap over the stabilized waste material. Therefore, on June 8, 1990, EPA issued an Explanation of Non-Significant Change (ENSC) explaining EPA's decision to substitute the four foot thick clay cap with an 80 mil thick high density polyethylene (HDPE) liner and an eight inch thick, double reinforced concrete cap. This type of concrete cap, to be placed on the southern portion of the Site, is similar to the cap specified in the ROD for the northern portion of the Site and would not increase the cost of the remedial action.

After a competitive bid process, TNRCC awarded the remediation contract to the lowest responsive, responsible bidder. The former Site operations area consisted of a metal warehouse with various pieces of equipment, a baghouse, two underground sumps, and a south storage yard with a concrete pad. The remedial action contractor (Contractor) removed the refractory from the furnaces and the two sumps from the ground. The Contractor eventually consolidated this material with the dust and bags from the baghouse and the contaminated soil. The Contractor decontaminated the metal warehouse building, drums and metal process equipment by high pressure water washing. TNRCC's oversight Engineer (Engineer) collected and analyzed wipe samples for cadmium and nickel.

The Contractor excavated 1,806 cubic yards of offsite contaminated soil and 10,553 cubic yards of onsite contaminated soil. The excavated material was placed in the south field and stabilized in-situ with a mixture of 1 part cement kiln dust to 9 parts Site-contaminated soil by weight. Equilibrium Partitioning Toxicity Tests verified that the Site contaminants did not leach out of the stabilized soil.

An 80 mil thick textured HDPE liner was then installed over the stabilized soil by the HDPE manufacturer's licensed installer and all line seams were tested in accordance with the manufacturer's specifications. An eight inch thick, double reinforced steel concrete cap was placed over the HDPE top liner and sealed according to the sealer manufacturer's specifications. A fence was installed around the Site. Contaminated soil excavated from the northern portion of the Site was replaced with clean soil and covered with an eight inch thick, double reinforced steel concrete cap. Contaminated soil excavated from offsite was replaced with clean soil and sodded.

Other than the material required for laboratory analysis, all contaminated material remained on the Site and is contained within the fenced and capped area. To reduce the quantity of buried material and to recycle steel, decontaminated steel was removed from the Site. Contaminated wash water was used in the contaminated soil compaction and stabilization activities. Air monitoring analyses during construction found no contaminant levels of concern.

EPA, TNRCC, and TNRCC's Engineer conducted the Construction Final Inspection on September 15, 1992. The team determined that the remedial action had been completed successfully. The Engineer's Final Remedial Action Report, detailing the remedial activities and documenting the successful completion of all construction activities, was submitted in November 1992. On

September 30, 1993, the Acting Regional Administrator signed the EPA Final Close Out Report. EPA released a Fact Sheet describing this report and the status of the Site in January 1994.

The Cooperative Agreement between EPA and TNRCC budgeted $2,552,898 for all of TNRCC's remedial design and remedial action activities, including the Construction Contract, oversight and the State ten percent cost share and the first year of Operation and Maintenance. The final actual cost expenditure for these activities totaled $1,383,320.

The EPA/TNRCC community relations activities included: a public meeting in 1985 to explain the Superfund process and to learn of citizen concerns; a questionnaire to area officials and residents requesting information on their concerns or issues related to the Site; an EPA briefing to Fort Worth health officials regarding the proposed remedy; and a meeting in November 1988 to present the alternatives developed in the FS and EPA's preferred alternative for remedial action. In June 1990, TNRCC presented the plans for the Remedial Action (RA). In April 1992, EPA and TNRCC met with railroad personnel working adjacent to the Site to discuss their concerns regarding possible exposures to Site contaminants during the Pesses metal reclamation operations and during the remedial action. EPA and TNRCC explained that they could not determine the worker exposure during the time that Pesses S'West conducted metal reclamation operations, gave the workers information regarding cadmium, nickel and lead poisoning, and suggested that the workers contact their employer-provided physician or their own personal physician. EPA and TNRCC also explained that air monitoring at the perimeter of the Site would ensure that no detectable quantities of contaminants left the Site during remediation activities.

All EPA completion requirements for the Site have been met. Specifically, confirmatory sampling verified that soil and dust contaminated with greater than 15 parts per million (ppm) cadmium or 100 ppm nickel was excavated, stabilized with cement kiln dust, capped and fenced in accordance with the ROD and the ENSC. Confirmatory soil sampling and the backfilling of the excavated areas with clean soil provides further assurance that the area no longer poses any threats to human health or to the environment and no further Superfund response is appropriate.

The Site Review and Update, prepared by the Texas Department of Health under a Cooperative Agreement with the Agency for Toxic Substances and Disease Registry (ATSDR), issued on September 1, 1993, states that all of ATSDR's previous recommendations have been addressed or can be dismissed. The potential threat to human exposure has been eliminated.

TNRCC's Engineer conducted quarterly Site inspections for TNRCC during the one year Operational and Functional (O&F) period from September 1992 to September 1993 and reported the results to TNRCC. The Site concrete cap and fencing were inspected for integrity. EPA, TNRCC and TNRCC's Engineer conducted the final O&F inspection on September 10, 1993. There were no cracks in the concrete but there were minor surface cracks in the asphalt sealant covering the joint fillers and one hole cut in the fence. Repairs were made. EPA determined that the remedial action was successful in protecting the public health and welfare.

The State assumed all responsibility for Operation & Maintenance (O&M) at the Site as of October 1, 1993. Therefore, long-term O&M of the Site will be under the direction of the State of Texas, as guaranteed in the Cooperative Agreement awarding remedial action funds. O&M consists of inspecting the concrete cap and security fence for integrity and making all needed repairs.

Hazardous substances, above health-based levels, remain in the stabilized and capped soil located on the southern portion of the Site. These materials prevent unlimited use and unrestricted access to this portion of the Site. For this reason, EPA will conduct statutory five-year reviews, pursuant to Office of Solid Waste and Emergency Response Directive 9355.7–02, ''Structure and Components of Five-Year Reviews''. EPA will conduct the first review before September 1996. These reviews will allow EPA and the State to determine whether the protectiveness of the remedy for the Site will be maintained over time.

Based on the successful stabilization of the hazardous materials onsite, the results of O&M activities to date, and ATSDR's favorable review, the remedy is protective and no additional response action is necessary. State funded O&M and EPA funded five-year reviews will continue in the future, but EPA may proceed with the Site deletion since applicable deletion criteria have been satisfied.

EPA, with concurrence of the State of Texas, has determined that all appropriate responses under CERCLA at the Pesses Chemical Company Site have been completed, and that no further response action, other than O&M and Five-Year reviews, is necessary. Therefore, EPA proposes to delete the Site from the NPL.

Dated: April 7, 1995.

A. Stanley Meiburg,

Acting Regional Administrator, US EPA Region 6.

[FR Doc. 95–9384 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–38, RM–8587]

Television Broadcasting Services; Kailua, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Paul Alfred Tennyson, proposing the allotment of Television Channel 50 to Kailua, Hawaii, as that community's first local television service. The allotment can be made consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules. The coordinates for the proposed allotment of Channel 50 to Kailua are North Latitude 21–24–00 and West Longitude 157–44–30. This proposal is not affected by the freeze on television allotments or applications.

DATES: Comments must be filed on or before June 1, 1995, and reply comments on or before June 16, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Paul Alfred Tennyson, 305 Hahani Street, #118, Kailua, Hawaii 96734 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–38, adopted March 28, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW, Room 246, or

2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–9415 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–36, RM–8547]

Radio Broadcasting Services; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Conway Broadcasting requesting the allotment of Channel 298C at Billings, Montana. Channel 298C can be allotted to Billings without a site restriction at coordinates 45–46–48 and 108–30–18.

DATES: Comments must be filed on or before June 1, 1995, and reply comments on or before June 16, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Conway Broadcasting, 4415 Fremont Avenue, South, Minneapolis, Minnesota 55409.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95-36, adopted March 28, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–9416 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

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

Rocky Mountain Region: Colorado et al.; Legal Notice of the Opportunity To Comment on Certain Proposed Actions and of Decisions Subject to Notice and Comment

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This is a list of those newspapers that will be used to publish notice of all decisions which are subject to appeal under 36 CFR part 217, notice of the opportunity to comment on certain proposed actions pursuant to 36 CFR 215.5, and notice of decisions subject to appeal under the general provisions of 36 CFR Part 215. As required at 36 CFR 215.5 and 215.9, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to public notice and comment and administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing the notices required under the provisions of 36 CFR Part 215 shall begin January 3, 1994.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, Box 25127, Lakewood, Colorado 80225, Area Code 303–275–5148.

SUPPLEMENTARY INFORMATION: Responsible Officials in the Rocky Mountain Region shall give notice of the opportunity to comment on certain proposed actions and of decisions subject to appeal pursuant to 36 CFR Part 215 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. The day after the publication of the public notice in the primary newspaper shall be the first day of the appeal filing period.

Decisions by the Regional Forester

The Denver Post, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Forester will also be published in the *Rocky Mountain News,* published daily in Denver, Denver County, Colorado. Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in *The Rapid City Journal,* published daily in Rapid City, Pennington County, South Dakota. For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisor Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: *Coloradoan,* published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: Greeley Tribune, published daily in Greeley, Weld County, Colorado.

Boulder District: Boulder Daily Camera, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: Clear Creek Courant, published weekly in Idaho Springs, Clear Creek County, Colorado.

Sulphur District: Granby Sky High News, published weekly in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

District Ranger Decisions

Collbran and Grand Junction Districts: Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

Paonia District: Delta County Independent, published weekly in Delta, Delta County, Colorado.

Cebolla and Taylor River Districts: Gunnison Country Times, published weekly in Gunnison, Gunnison County, Colorado.

Norwood District: Telluride Times-Journal, published weekly in Telluride, San Miguel County, Colorado.

Ouray District: Montrose Daily Press, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

District Ranger Decisions

San Carlos District: Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

Comanche District: Plainsman Herald, published weekly in Springfield, Baca County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *La Junta Tribune Democrat,* published daily in La Junta, Otero County, Colorado, and in the *Ark Valley Journal,* published weekly in La Junta, Otero County, Colorado.

Cimarron District: Tri-State News, published weekly in Elkhart, Morton County, Kansas.

South Platte District: Daily News Press, published daily in Castle Rock, Douglas County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *High Timber Times,* published weekly in Conifer, Jefferson County, Colorado, and in the *Fairply Flume,* published weekly in Fairplay, Park County, Colorado.

Leadville District: Herald Democrat, published weekly in Leadville, Lake County, Colorado.

Salida District: The Mountain Mail, published daily in Salida, Chaffee County, Colorado.

South Park District: Fairplay Flume, published weekly in Fairplay, Park County, Colorado.

Pikes Peak District: Gazette Telegraph, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decision

Bears Ears District: Northwest Colorado Daily Press, published daily in Craig, Moffat County, Colorado. In addition, notice of decisions by the District Ranger will also be published in the *Hayden Valley Press,* published weekly in Hayden, Routt County, Colorado, and in the *Steamboat Pilot,* published weekly in Steamboat Springs, Routt County, Colorado. Yampa and Hahns Peak Districts: *Steamboat Pilot,* published weekly in Steamboat Springs, Routt County, Colorado.

Middle Park District: Middle Part Times, published weekly in Kremmling, Grand County, Colorado.

North Park District: Jackson County Star, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisor Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Friday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: Aspen Times, published weekly in Aspen, Pitkin County, Colorado.

Blanco District: Meeker Herald, published weekly in Meeker, Rio Blanco County, Colorado.

Dillon District: Summit Sentinel, published twice weekly in Frisco, Summit County, Colorado.

Eagle District: Eagle Valley Enterprise, published weekly in Eagle, Eagle County, Colorado.

Holy Cross District: Vail Trail, published weekly in Minturn, Eagle County, Colorado.

Rifle District: Rifle Telegram, published weekly in Rifle, Garfield County, Colorado.

Sopris District: Valley Journal, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.

The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bessey District: The North Platte Telegraph, published daily in North Platte, Lincoln County, Nebraska.

Samuel R. McKelvie National Forest: The Valentine Newspaper, published weekly in Valentine, Cherry County, Nebraska.

Fall River and Wall Districts: The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota,

Pine Ridge District: The Chadron Record, published weekly in Chadron, Dawes County, Nebraska.

Black Hills National Forest, South Dakota and Eastern Wyoming

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

Buffalo District: Buffalo Bulletin, published weekly in Buffalo, Johnson County, Wyoming.

Medicine Wheel District: Lovell Chronicle, published weekly in Lovell, Big Horn County, Wyoming.

Tensleep District: Northern Wyoming Daily News, published daily in Worland, Washakie County, Wyoming.

Paintrock District: Greybull Standard, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

Douglas District: Casper Star-Tribune, published daily in Casper, Natrona County, Wyoming.

Brush Creek and Hayden Districts: Rawlins Daily Times, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decisions

Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: Powell Tribune, published twice weekly in Powell, Park County, Wyoming.

Wapiti and Greybull Districts: Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

Wind River District: The Dubois Frontier, published weekly in Dubois, Teton County, Wyoming,

Lander District: Wyoming State Journal, published twice weekly in Lander, Fremont County, Wyoming.

Dated: April 6, 1995.

Elizabeth Estill,

Regional Forester.

[FR Doc. 95–9125 Filed 4–14–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 737]

Peavey Electronics Corp.; AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority for Subzone Status, Peavey Electronics Corporation (Electronic Audio and Acoustical Products), Foley, Alabama

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, for authority to establish special-purpose subzone status at the electronic audio and acoustical products manufacturing plant of the Peavey Electronics Corporation in Foley, Alabama, was filed by the Board on March 3, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 8–94, 59 FR 12892, 3–18–94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 82C) at the Peavey Electronics Corporation plant in Foley, Alabama, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of April 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–9406 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–201–601]

Fresh Cut Flowers From Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the Floral Trade Council (petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers four producers/exporters, Rancho El Aguaje (Aguaje), Rancho Guacatay (Guacatay), Rancho El Toro (Toro), and Visaflor S. de P.R. (Visaflor), and entries of the subject merchandise into the United States during the period April 1, 1991, through March 31, 1992. We have preliminarily determined that dumping margins exist for three of these producers. The Department based these margins on the best information available (BIA). The fourth company, Visaflor, made no shipments during the period of review (POR).

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1992, the Department published in the **Federal Register** (57 FR 11935) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on fresh cut flowers from Mexico (52 FR 13491, April 23, 1987). In accordance with 19 CFR 353.22(a)(1), the petitioner requested an administrative review for Aguaje, Guacatay, Toro, and Visaflor. On May 22, 1993, the Department published a notice of initiation of this review (51 FR 21769) covering the period April 1, 1991, through March 31, 1992. Visaflor stated that it did not ship subject merchandise from Mexico to the United States during the POR. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Because the Department determined during the prior administrative review that Guacatay had made sales in the home market below the cost of production (COP), we initiated a COP investigation with respect to Guacatay on October 10, 1992.

Scope of the Review

The products covered by this review are certain fresh cut flowers, defined as standard carnations, standard chrysanthemums, and pompon chrysanthemums. During the POR, such merchandise was classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) item numbers 0603.10.7010 (pompon chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive as to the scope of the order.

This review covers sales of the subject merchandise manufactured by Aguaje, Guacatay, Toro, and Visaflor, and entered into the United States during the period April 1, 1991, through March 31, 1992.

Best Information Available

The Department has determined that the data submitted by Aguaje, Toro, and Guacatay are unusable for the following reasons. The original questionnaire responses they submitted included unaudited, ''in-house'' financial statements. The respondents reported that they were not legally obligated to file income tax returns on sales made during the POR. In response to a supplemental questionnaire sent to all three companies, the respondents indicated that they were, in fact, obligated to file income tax returns covering the POR because of a change in Mexican law.

In an additional supplemental questionnaire, the Department asked the respondents to submit copies of these tax returns, and to reconcile them to the unaudited ''in-house'' financial

statements previously submitted to the Department. Toro and Guacatay submitted copies of their income tax returns; however, they failed to reconcile them with their unaudited financial statements. The remaining respondent, Aguaje, claimed it could not substantiate or reconcile the cost data contained in its unaudited financial statement because it had not filed its income tax returns for the POR, as required by the Mexican government. Although Aguaje claimed that it had not filed its returns, it provided no evidence to demonstrate that it was exempt from filing.

The Department relies on the accounting system used in the preparation of the audited financial statements to ensure that a company's submitted sales and cost data are credible. An ''in-house'' system which has not been audited, and is not used for tax purposes or for any purpose other than internal deliberations of the company, does not assure the Department that costs have been stated in accordance with generally accepted accounting principles, or that all sales and costs have been appropriately captured by the ''in-house'' system. (See Final Determination at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products and Certain Cut-To-Length Carbon Steel Plate from Korea, 58 FR 37186 (July 9, 1993).)

For prior review periods, respondents were not required under Mexican law to maintain audited financial statements or file tax returns. We accepted respondents' unaudited ''in-house'' statements in prior reviews because they did not have, and therefore could not submit, official corroboration of their internal records. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 59622–23 (June 28, 1991).) However, Mexican law governing income tax reporting changed in 1991, and the respondents were required to have filed tax returns covering the POR. Because respondents made inconsistent statements regarding their obligation to file taxes, and further, failed to reconcile their financial statements to their tax records as requested by the Department, we rejected respondents' data in their entirety.

For the reasons stated above, the Department determines that Aguaje, Guacatay, and Toro are uncooperative respondents. As a result, in accordance with section 776(c) of the Act, we have determined that the use of BIA is appropriate. Whenever, as here, a company refuses to cooperate with the Department, or otherwise significantly impedes an antidumping proceeding, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or in prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise. (See Antifriction Bearings from France, et al.; Final Results of Review, 58 FR 39729 (July 26, 1993).) As BIA, we assigned the rate of 39.95 percent, which is the second highest rate found for any Mexican flower producer from both the prior reviews and the LTFV investigation. We have selected this rate because the highest rate found for any Mexican flower producer in prior reviews and the LTFV investigation, 264.43 percent, is an aberrational rate not representative of the market. This rate was due to a company's extraordinarily high business expenses during the review period resulting from investment activities which were uncharacteristic of the other reviewed companies. Therefore, we found it inappropriate to use this rate as BIA, both in the prior review and in this review. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 29623 (June 28, 1991).) We preliminarily determine that the following dumping margins exist for the period April 1, 1991, through March 31, 1992:

Manufacturer/Exporter	Margin (percent)
Ranch el Aguaje	39.95
Rancho Guacatay	39.95
Rancho el Toro	39.95
Visaflor	[1] 0

[1] No shipments during the POR. Rate is from the last review in which Visaflor had shipments.

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the result of its analysis of issues raised in any such case briefs.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 18.28 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: April 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9407 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–DS–P

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: North American Free Trade Agreement, NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final dumping

determination made by the Deputy Minister of National Revenue, Customs, Excise and Taxation respecting Fresh, Whole, Delicious; Red Delicious and Golden Delicious apples, originating in or exported from the United States of America. The Binational Panel Review is terminated. (Secretariat File No. CDA–95–1904–02).

SUMMARY: On February 14, 1995, the Northwest Horticultural Council (NHC) filed a Request for panel review in the above referenced matter with the Canadian Section of the NAFTA Secretariat. On March 17, 1995, the NHC filed a Notice of Motion requesting termination of this panel review. No other interested person filed a request for Panel Review of this final determination. As of March 17, 1995, no Complaint nor Notice of Appearance had been filed by any interested person. Therefore, pursuant to subrules 71(2) and 78(a) of the NAFTA Article 1904 Panel Rules, this Notice of Completion of Panel Review was effective on March 17, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

Dated: April 7, 1995.

Caratina L. Alston,

Deputy U.S. Secretary, NAFTA Binational Secretariat.

[FR Doc. 95–9408 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–GT–M

National Institute of Standards and Technology

[Docket No. 950215050–5050–01]

RIN 0693–AB33

Approval of Federal Information Processing Standards Publication 180–1, Secure Hash Standard (SHS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 180–1, Secure Hash Standard (SHS).

SUMMARY: On July 11, 1994 (59 FR 35317–35319), and August 5, 1994 (59 FR 40084) notices were published in the **Federal Register** that a revision of Federal Information Processing Standards Publication FIPS PUB 180, Secure Hash Standard (SHS), was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this revised standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the revised standard as Federal Information Processing Standards Publication (FIPS PUB) 180–1, and prepare a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATES: This revised standard is effective October 2, 1995.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid, telephone (301) 975–2938, National Institute of Standards and Technology, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: NIST has been notified that Department of Defense authorities have approved the use of the SHS with the DSS to sign unclassified data processed by ''Warner Amendment'' systems (10 U.S.C. 2315 and 44 U.S.C. 3502(2)) as well as classified data in selected applications.

Dated: April 11, 1995.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publication 180–1

(Date)

Announcing the Secure Hash Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Standard: Secure Hash Standard.

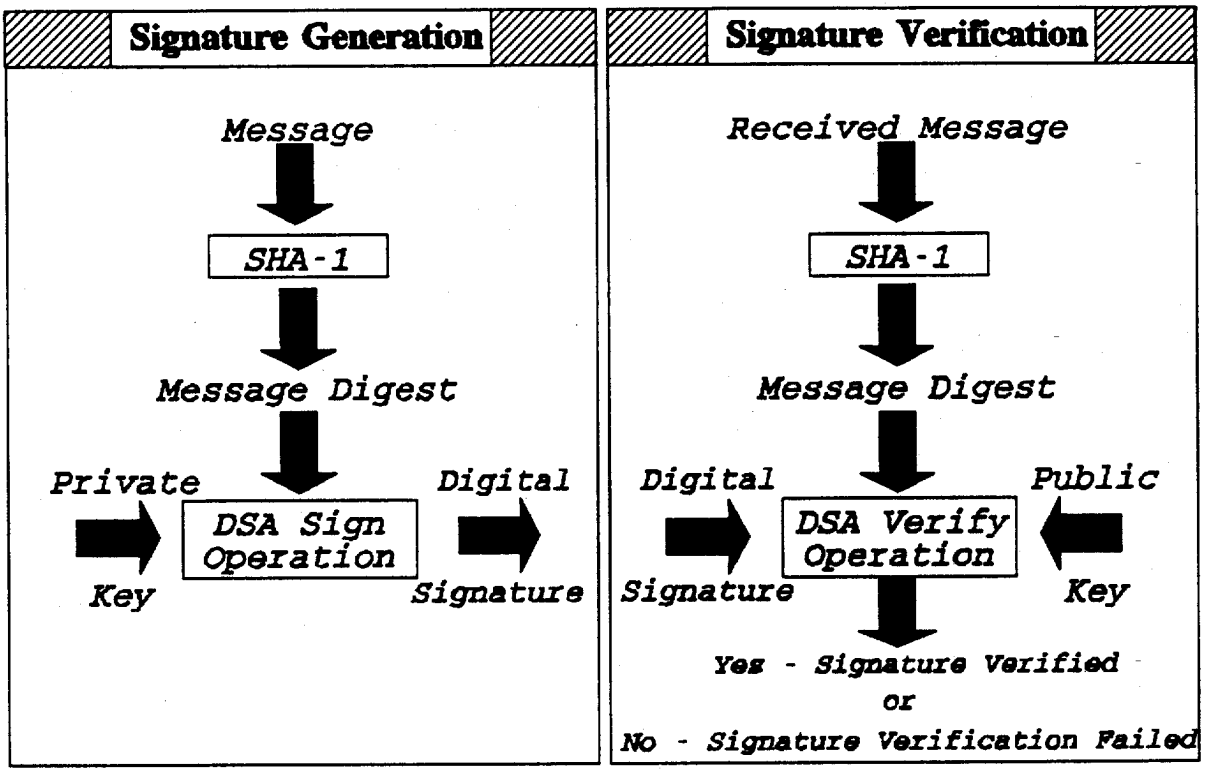
Category of Standard: Computer Security.

Explanation: This Standard specifies a secure hash algorithm, SHA–1, for computing a condensed representation of a message or a data file. When a message of any length $< 2^{64}$ bits is input, the SHA–1 produces a 160–bit output called a message digest. The message digest can then be input to the Digital Signature Algorithm (DSA) which generates or verifies the signature for the message (see Figure 1). Signing the message digest rather than the message often improves the efficiency of the process because the message digest is usually much smaller in size than the message. The same hash algorithm must be used by the verifier of a digital signature as was used by the creator of the digital signature.

The SHA–1 is called secure because it is computationally infeasible to find a message which corresponds to a given message digest, or to find two different messages which produce the same message digest. Any change to a message in transit will, with very high probability, result in a different message digest, and the signature will fail to verify. SHA–1 is a technical revision of SHA (FIPS 180). A circular left shift operation has been added to the specifications in section 7, line b, page 9 of FIPS 180 and its equivalent in section 8, line c, page 10 of FIPS 180. This revision improves the security provided by this standard. The SHA–1 is based on principles similar to those used by Professor Ronald L. Rivest of MIT when designing the MD4 message digest algorithm,[1] and is closely modelled after that algorithm.

BILLING CODE 3510–CN–M

[1] ''The MD4 Message Digest Algorithm,'' Advances in Cryptology-CRYPTO '90 Proceedings, Springer-Verlag, 1991, pp. 303–311.



BILLING CODE 3510–CN–C

Figure 1: Using the SHA–1 With the DSA

Approving Authority: Secretary of Commerce.

Maintenance Agency: U.S. Department of Commerce, National Institute of Standards and Technology, Computer Systems Laboratory.

Applicability: This standard is applicable to all Federal departments and agencies for the protection of unclassified information that is not subject to section 2315 of Title 10, United States Code, or section 3502(2) of Title 44, United States Code. This standard is required for use with the Digital Signature Algorithm (DSA) as specified in the Digital Signature Standard (DSS) and whenever a secure hash algorithm is required for Federal applications. Private and commercial organizations are encouraged to adopt and use this standard.

Applications: The SHA–1 may be used with the DSA in electronic mail, electronic funds transfer, software distribution, data storage, and other applications which require data integrity assurance and data origin authentication. The SHA–1 may also be used whenever it is necessary to generate a condensed version of a message.

Implementations: The SHA–1 may be implemented in software, firmware, hardware, or any combination thereof. Only implementations of the SHA–1 that are validated by NIST will be considered as complying with this standard. Information about the requirements for validating implementations of this standard can be obtained from the National Institute of Standards and Technology, Computer Systems Laboratory, Attn: SHS Validation, Gaithersburg, MD 20899.

Export Control: Implementations of this standard are subject to Federal Government export controls as specified in Title 15, Code of Federal Regulations, Parts 768 through 799. Exporters are advised to contact the Department of Commerce, Bureau of Export Administration for more information.

Patents: Implementations of the SHA–1 in this standard may be covered by U.S. and foreign patents.

Implementation Schedule: This standard becomes effective October 2, 1995.

Specifications: Federal Information Processing Standard (FIPS) 180–1, Secure Hash Standard (affixed).

Cross Index

a. FIPS PUB 46–2, Data Encryption Standard.

b. FIPS PUB 73, Guidelines for Security of Computer Applications.

c. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.

d. FIPS PUB 186, Digital Signature Standard.

e. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

Objectives: The objectives of this standard are to:

a. Specify the secure hash algorithm required for use with the Digital Signature Standard (FIPS 186) in the generation and verification of digital signatures:

b. Specify the secure hash algorithm to be used whenever a secure hash algorithm is required for Federal applications; and

c. Encourage the adoption and use of the specified secure hash algorithm to private and commercial organizations.

Qualifications: While it is the intent of this standard to specify a secure hash algorithm, conformance to this standard does not assure that a particular

implementation is secure. The responsible authority in each agency or department shall assure that an overall implementation provides an acceptable level of security. This standard will be reviewed every five years in order to assess its adequacy.

Waiver Procedure: Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Waiver will be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletion as the agency is authorized and decides to make under 5 United States Code Section 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies of the Standard: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 180–1 (FIPSPUB180–1), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 95–9386 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Applicable Form: Industrial Capabilities Questionnaire; DD Form X277.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 7,500.

Responses per Respondent: 1.

Annual Responses: 7,500.

Average Burden per Response: 27 hours and 27 minutes.

Annual Burden Hours: 205,900.

Needs and Uses: The information collected hereby, will be used by the Department of Defense to perform industrial assessments required as part of its responsibility to encourage the maintenance of a diverse, healthy, and competitive industrial base capable of meeting Departmental needs. The proposed collection consolidates several information collections, including the attendant instruments of collection; i.e., OMB Control Numbers 0702–0037, ''Industrial Base Program Production Capacity, Crisis Production, and Industrial Facility Survey,'' which includes DD Forms 2575, 2575–1, and 2575–2; 0704–0352, ''Industrial Base Assessment Baseline and Update Questionnaires,'' which includes DD Forms 2649 and 2650; 0701–0115, ''Armament Sector Analysis of Precision Guided Munitions Questionnaire;'' and 0703–0033, ''Manufacturing Lead Time Production Solicitation and Occupational Survey.''

Affected Public: Businesses or other for-profit; Federal agencies or employees; and Small Businesses or Organizations.

Frequency: One time and On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

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INDUSTRIAL CAPABILITIES QUESTIONNAIRE

(Stocked and used by

Form Approved
OMB No.
Expires

Public reporting burden for this collection of information is estimated to average X per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (####-####), Washington, DC 20503.
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO

I. FACILITY IDENTIFICATION | **DATA DATE**

1. COMPANY OR U.S. GOVERNMENT DEPARTMENT/FACILITY *(Manufacturing Site)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. STATUS OF OWNERSHIP *(X one)*
(1) COMMERCIAL FACILITIES
☐ PUBLICLY TRADED ☐ PRIVATELY HELD ☐ FOREIGN % OWNERSHIP
(2) GOVERNMENT FACILITIES
☐ GOGO ☐ GOCO

g. MANUFACTURING SITE POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)* | (5) SIGNATURE | (6) DATE SIGNED

h. GOVERNMENT REPRESENTATIVE *(Individual completing form)*
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)* | (5) SIGNATURE **DRAFT** | (6) DATE SIGNED
(7) ADDRESS
STREET | CITY | STATE | ZIP CODE

2. PARENT COMPANY OR GOVERNMENT HEADQUARTERS *(If any)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)* | g. NAME OF PREVIOUS PARENT COMPANY IF CHANGED DURING THE PAST TWO YEARS

3. SUBSIDIARY OR DIVISION NAME *(If different from Item 1)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE | (3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)*

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II. OVERALL OPINIONS	CAGE CODE	DATA DATE

4. ISSUES/RECOMMENDATIONS

a. LIST ISSUES WHICH REQUIRE YOUR GREATEST ATTENTION CONCERNING THE ITEMS YOU SUPPLY FOR ULTIMATE USE BY THE GOVERNMENT, AND ENTER RECOMMENDED SOLUTIONS.

PRODUCT (1)	NSN/PART NUMBER (2)	ISSUE (3)	SOLUTION (4)
(a)			
(b)			
(c)			
(d)			

b. WHAT SEEMINGLY UNSOLVABLE MATERIALS OR PROCESS PROBLEMS SHOULD BE RESEARCHED? *(Include any suggestions for directing that research.)*

c. EXPLAIN THE IMPACT DEFENSE BUDGET REDUCTIONS HAVE HAD ON THIS FACILITY *(Sales, personnel, plant, and equipment).*

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5. INDUSTRIAL BASE ISSUES

(Indicate industrial base issues/problems that may be applicable to the facility. Attach additional information, if so desired. If an issue would limit the facility in a rapid production expansion, indicate by marking "X" in column b. Use additional copies of this page if more space is needed.)

ISSUE a.	LIMIT *(X)* b.	CAUSE c.	SUGGESTIONS FOR IMPROVEMENT d.
(1)			
(2)			
(3)			
(4)			

6. ADDITIONAL REMARKS *(Use additional copies of this page if more space is needed.)*

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SECTION A - FACILITY DESCRIPTION	CAGE CODE	DATA DATE

7. SITE DESCRIPTION

a. TYPE OF FACILITY *(X all that apply)*

- [ ] ASSEMBLY
- [ ] DISTRIBUTION
- [ ] CHEMICAL PROCESSING
- [ ] PARTS MANUFACTURING
- [ ] ENGINEERING
- [ ] OTHER *(Specify)*
- [ ] RESEARCH & DEVELOPMENT
- [ ] DEPOT LEVEL REPAIRS

b. PRODUCTION TYPE *(X)*

- [ ] MASS PRODUCTION
- [ ] JOB LOT
- [ ] CUSTOM

c. FLOOR SPACE *(Square feet)*		d. STORAGE *(Square feet)*			e. ACREAGE		
(1) USED	(2) UNUSED	(1) COVERED *(Outdoor)*	(2) UNCOVERED *(Outdoor)*	(3) TOTAL STORAGE *(Indoor)*	(1) TOTAL	(2) DEVELOPED	(3) AVAILABLE FOR EXPANSION

f. ARE MANUFACTURING FACILITIES LEASED? *(X one. If Yes, complete (1) - (3).)*

[ ] YES [ ] NO	(1) PERCENTAGE	(2) LEASEHOLDER	(3) EXPIRATION DATE *(YYMMDD)*

g. TRANSPORTATION

(1) *(X all that apply)*

- [ ] DEEP SEA
- [ ] INLAND WATERWAY
- [ ] AIRPORT
- [ ] RAIL
- [ ] MAJOR HIGHWAY
- [ ] OTHER *(Specify)*

(2) RESTRICTIONS *(If any)*

h. ENERGY REQUIRED FOR MANUFACTURING OPERATIONS *(X all that apply)*

[ ] GAS [ ] OIL [ ] ELECTRIC [ ] SOLAR [ ] OTHER *(Specify)*

8. ENVIRONMENTAL/SAFETY REQUIREMENTS

a. RANK ORDER OF EACH OF THE FOLLOWING ENVIRONMENTAL/SAFETY REQUIREMENTS THAT WILL IMPACT YOUR PLANS OR PRODUCTION CAPABILITY

NOW (a)	FIVE YEARS FROM NOW (b)	REQUIREMENT (c)	NOW (a)	FIVE YEARS FROM NOW (b)	REQUIREMENT (c)
		(1) CHLOROFLUOROCARBONS/OZONE DEPLETING SUBSTANCES			(8) ASBESTOS
		(2) NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)			(9) NUCLEAR WASTE
		(3) VOLATILE ORGANIC COMPOUNDS	DRAFT		(10) CLEAN AIR ACT (CAA)
		(4) RESOURCE CONSERVATION RECOVERY ACT (RCRA)			(11) CLEAN WATER ACT (CWA)
		(5) TOXIC SUBSTANCES CONTROL ACT (TSCA)			(12) HAZARDOUS MATERIAL ACT
		(6) OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)			(13) OTHER *(Specify)*
		(7) HAZARDOUS AND SOLID WASTE AMENDMENTS (HSWA)			

b. INCLUDE YOUR PLANS OR YOUR ACTIONS TO ELIMINATE ASSOCIATED PRODUCTION RISKS AT YOUR FACILITY.

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SECTION B - BUSINESS PROFILE	CAGE CODE	DATA DATE

9. ANNUAL VALUE OF SALES *(Both Historic and Projected)*

	-4 (a)	-3 (b)	-2 (c)	-1 (d)	BASE YEAR _____ (e)	+1 (f)	+2 (g)
a. TOTAL *($ in Millions)*							
b. COMMERCIAL *(% of Total)*							
c. DIRECT FOREIGN SALES *(% of Total)*							
d. FOREIGN MILITARY SALES *(% of Total)*							
e. TOTAL U.S. GOVERNMENT *(% of Total)*							
(1) U.S. ARMY *(% of Government Total)*							
(2) U.S. NAVY *(% of Government Total)*							
(3) U.S. AIR FORCE *(% of Government Total)*							
(4) DEFENSE LOGISTICS AGENCY *(% of Government Total)*							
(5) BALLISTIC MISSILE DEFENSE ORGANIZATION *(% of Govt Total)*							
(6) NON-DOD U.S. GOVERNMENT *(% of Government Total)*							

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10. INVESTMENT AND BACKLOG *(Both Historic and Projected)*

	-4 (1)	-3 (2)	-2 (3)	-1 (4)	BASE YEAR _____ (5)	+1 (6)	+2 (7)
a. CAPITAL INVESTMENT							
b. TOTAL R&D INVESTMENT							
c. GOVERNMENT BACKLOG *($)*							
d. GOVERNMENT BACKLOG *(Months)*							
e. COMMERCIAL BACKLOG *($)*							
f. COMMERCIAL BACKLOG *(Months)*							

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SECTION C - LABOR	CAGE CODE	DATA DATE

11. CURRENT SITE EMPLOYMENT LEVELS

CATEGORY a.	NUMBER OF PERSONNEL b.	NUMBER OF PERSONNEL PER SHIFT			HOURS PER DAY f.	DAYS PER WEEK g.
		SHIFT 1 c.	SHIFT 2 d.	SHIFT 3 e.		
(1) OFFICE/SUPPORT						
(2) ENGINEERING						
(3) RESEARCH AND DEVELOPMENT						
(4) MANAGEMENT						
(5) DEPOT LEVEL REPAIR						
(6) TOTAL PRODUCTION						
(a) SKILLED						
(b) UNSKILLED						

12. EMPLOYMENT LEVELS OVER THE PAST FIVE YEARS AND PROJECTIONS

-4 a.	-3 b.	-2 c.	-1 d.	BASE YEAR _____ e.	+1 f.	+2 g.

13. TRADES, SKILLS OR PROFESSIONS MOST AFFECTED BY LOWER PRODUCTION RATES *(List trades, skills, or professions most affected by lower production rates associated with DoD or other Government products. X appropriate column to indicate how long it would take to rehire and/or retrain workers in these areas.)*

SKILL AREA a.	30 DAYS b.	1-3 MONTHS c.	3-6 MONTHS d.	6-12 MONTHS e.	1-2 YEARS f.	3-5 YEARS g.	5+ YEARS h.
(1)							
(2)							
(3)							
(4)							
(5)							
(6)							
(7)							
(8)							

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14. WILL ANY DECISIONS TO "MAKE OR BUY" BE CHANGED IN ORDER TO RETAIN LAID OFF WORKERS/PROFESSIONALS? *(Explain)*

☐ YES

☐ NO

15. UNIONS REPRESENTED IN YOUR FACILITY

UNION *(Spell out all acronyms)* a.	PERCENTAGE UNION b.	CONTRACT EXPIRATION DATE *(YYMMDD)* c.
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		

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SECTION D - MATERIAL ISSUES	CAGE CODE	DATA DATE

16. STRATEGIC AND CRITICAL MATERIALS ESSENTIAL TO PRODUCTION *(Identify materials, special alloys, and composite materials which are essential to production by placing an X in column b. For marked items, list supplier and indicate whether foreign sourced (FS) or foreign dependent (FD). Indicate whether problems are currently being had or are anticipated, and indicate whether future demand will significantly affect U.S. demand for these materials (i.e., will there be a significant change in demand).)*

MATERIAL a.	ESSENTIAL TO PRODUCTION (X) b.	SUPPLIER c.	FS/FD d.	PROBLEMS CURRENT YEAR _____ e.	ANTICIPATE PROBLEMS IN 5 YEARS f.	AFFECT DEMAND (Yes/No) g.
(1) ALUMINUM						
(2) ANTIMONY						
(3) BERYLLIUM						
(4) CHROMIUM						
(5) COBALT						
(6) COLUMBIUM						
(7) DEPLETED URANIUM						
(8) GALLIUM						
(9) MANGANESE						
(10) NICKEL ALLOY						
(11) PLATINUM						
(12) RHENIUM						
(13) SILICON, HIGH PURITY						
(14) TANTALUM						
(15) TIN						
(16) TITANIUM						
(17) TUNGSTEN						
(18) VANADIUM						
(19) ZIRCONIUM						
(20) COMPOSITES:		DRAFT				
(21) OTHER:						

17. DESCRIPTION *(For any situation identified in columns d., e., and f., list the programs, materials, end items and part numbers, if known. Describe any problems and relate how your facility will position itself to eliminate associated production risks.)*

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SECTION E - PRODUCTION CAPABILITIES OF FACILITY	CAGE CODE	DATA DATE

18. PRODUCTION ITEMS

ITEM OR CLASS OF ITEM *(List those items or classes of items which account for a significant part of your production capacity and/or sales volume.)* a.	PERCENT OF CAPACITY b.	SHIFT BASIS *(1-8-5)* c.	PERCENT OF PRODUCTION ASSEMBLED FROM COMPONENTS OF OUTSIDE SOURCES d.
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			
(8)			
(9)			
(10)			
(11)			
(12)			

19. FUTURE EXPANSION PLANS OR CAPITAL EQUIPMENT PURCHASES *(Relate any future expansion plans or capital equipment purchases that would benefit the items listed in Item 18. Indicate costs, expected return on investment percentage, and implementation time frame, in months. Attach additional pages if more space is needed.)*

a. DESCRIPTION

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b. ESTIMATED COST	c. EXPECTED RETURN ON INVESTMENT *(%)*	d. IMPLEMENTATION TIME FRAME *(Months)*

20. CAPACITY/CAPABILITIES

	FABRICATION a.	ASSEMBLY b.	INSPECTION c.	TEST d.	DESIGN AND PROTOTYPING e.	TOTAL f.
(1) SQUARE FEET ALLOCATED *(SQF)*						
(2) WORK DAYS *(WKD)*						
(3) UTILIZATION *(UTL)*						
(4) SHIFT CONFIGURATION *(SFT)*						
(5) SPECIALIZED EQUIPMENT *(SPE)*						

REFERENCE CODES - CAPACITY/CAPABILITIES

SQF = Square feet allocated. For each area listed select the closest choice code and write that number in the appropriate space.

1 = Up to 2,500 sq. ft. **2** = Over 2,500 sq. ft. **3** = Over 10,000 sq. ft. **4** = Over 50,000 sq. ft. **5** = Over 100,000 sq. ft.

WKD = Work days (typical) for each area listed.

1 = Less than four **2** = four **3** = Five **4** = Six **5** = Seven

UTL = Utilization of space based on present shift configuration.

1 = Up to 20% **2** = Over 20% **3** = Over 40% **4** = Over 60% **5** = Over 80%

SFT = Shift configuration for each area listed.

1 = Up to one shift **2** = One to two shifts **3** = Up to three shifts

SPE = Specialized equipment. Equipment required to do normal functions within that area. Choose closest fit.

1 = Poor condition over 7 years old **2** = In good repair over 7 years old **3** = Traditional 3-7 years old
4 = Modern up to 3 years old **5** = State-of-the-Art up to 1 year old

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SECTION E - PRODUCTION CAPABILITIES OF FACILITY *(Continued)*	CAGE CODE	DATA DATE

21. MAJOR FACILITY CONSTRAINTS *(Using risk rank and constraint codes below, determine the risk ranking of this facility and select up to five constraint codes.)*

a. RISK RANK	b. TOP FIVE CONSTRAINTS *(High to low)*				

RISK RANK CODES

L = Low risk. Should be able to produce acceptable items beyond 5 years.
M = Medium risk. May face problems producing acceptable items in 2 to 5 years.
H = High risk. May face problems producing acceptable items in 0 to 2 years.

CONSTRAINT CODES *(Some of these constraints may be company/division versus product oriented; some apply to both company and product.)*

AM	Acquisition/merger - present or future concerns.	LI	Liability/litigations that affect production.
AP	Approval process too lengthy - causes slippage.	LL	Long lead/pacing item(s) that affect schedule.
AT	Aging tools, equipment, and/or processes.	LP	Low or no profits that may affect contracts.
BI	Business/economic issues affect production.	MO	Moves and major relocations - affecting output.
BV	Business volume is too low - future uncertain.	MV	Too many vendors - many sources cause problems.
CC	Critical component, part, assembly, etc.	OS	Occupational safety issues affect production.
CI	Capacity issues - limits may affect production.	PO	Policy issues not conducive to meeting goals.
CM	Critical material(s) may affect production.	PP	Proprietary process/material - only source.
CO	Cost issues impact production.	PQ	Production quality issues affect output.
CP	Capability issues - limits may affect output.	SC	Surge/crises/resupply - hinders output.
DO	Documentation/specifications may cause problems.	SK	Skilled labor required to sustain production.
DS	Diminishing manufacturing sources - economy, politics, etc.	SO	Sole source - only one capable of making product.
EN	Environmental issues affect production.	SS	Single qualified source - others could qualify.
FD	Foreign dependent - only source is outside U.S.A.	ST	Special tests and/or equipment a pacing item.
FS	Foreign source - by choice is outside U.S.A.	TH	Transportation/handling affects schedule.
GA	Government availability causes slippage.	TO	Tooling shortage - limited availability.
IO	Investment opportunity for improved output.	TT	Technology transfer - poor TT hinders production.
LA	Labor issues - unions, health, welfare, etc.	ZZ	Other *(Specify)*

22. MANUFACTURING CAPACITY NOW USED FOR COMMERCIAL WORK

a. *(X all that apply)*

	NOT APPLICABLE		ENTIRELY SEPARATE FROM DEFENSE WORK
	SAME USED FOR DEFENSE WORK		CAN BE CONVERTED TO DEFENSE WORK
	SAME USED FOR DEFENSE WORK EXCEPT FOR CERTAIN PROCESSES		CANNOT BE CONVERTED TO DEFENSE WORK

b. EXPLAIN

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23. ALTERNATE SUPPLIERS *(List alternate suppliers for any items you produce for which you do NOT intend to maintain production capability.)*

24. DO YOU FORECAST AN INCREASE OR REDUCTION OF MANUFACTURING CAPACITY? *(Explain)*

25. PURSUIT OF COMMERCIAL BUSINESS

a. IF YOUR DEFENSE SALES DECLINE, DO YOU INTEND TO PURSUE COMMERCIAL BUSINESS? *(X one)*		YES		NO

b. WHAT ARE THE MAJOR IMPEDIMENTS TO PURSUING COMMERCIAL BUSINESS?

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SECTION E - PRODUCTION CAPABILITIES OF FACILITY *(Continued)*	CAGE CODE	DATA DATE

26. WHAT ARE THE PROSPECTS FOR INCREASING FOREIGN MILITARY SALES OR OTHER FOREIGN SALES?

27. REDUCTION IN CONTRACTS/PLANT CLOSURE

a. DOES PRESENT CONCERN EXIST AS TO POSSIBLE LOSS OR REDUCTION IN CONTRACTS/PROGRAMS THAT MAY NECESSITATE CLOSURE OF THIS PLANT? *(X one and explain.)*

- [ ] YES
- [ ] NO

b. IF YES, WHICH CONTRACTS OR PROGRAMS ARE ABSOLUTELY VITAL TO YOUR SURVIVABILITY? *(X all that apply and explain.)*

- [ ] ARMY
- [ ] NAVY
- [ ] AIR FORCE
- [ ] DEFENSE LOGISTICS AGENCY
- [ ] BALLISTIC MISSILE DEFENSE ORGANIZATION
- [ ] COMMERCIAL DOMESTIC
- [ ] FOREIGN COMMERCIAL
- [ ] FOREIGN MILITARY
- [ ] OTHER

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28. ACTUAL CAPACITY UTILIZATION AND PROJECTIONS

CAPACITY UTILIZATION % = CURRENT PLANT OUTPUT / MAXIMUM PRODUCTION RATE *(1-8-5)*	-4 a.	-3 b.	-2 c.	-1 d.	BASE YEAR _____ e.	+1 f.	+2 g.
			%	%	%	%	%

29. FACILITY MODERNIZATION IMPROVEMENT PROGRAMS

a. FOR EACH CATEGORY BELOW, IDENTIFY CURRENT AND PROJECTED PERCENT OF GROSS SALES.

CATEGORY (a)	-4 (b)	-3 (c)	-2 (d)	-1 (e)	BASE YEAR _____ (f)	+1 (g)	+2 (h)
(1) FACILITY MODERNIZATION			%	%	%	%	%
(2) CAPITAL EQUIPMENT UPGRADES							
(3) MANUFACTURING/PROCESS TECHNOLOGY MODERNIZATION/R&D PROJECTS							
(4) COMPUTER SOFTWARE							

b. AT THIS PLANT, RANK THE TOP FIVE FACTORS WHICH INFLUENCE YOUR DECISION TO MAKE CAPITAL INVESTMENTS IN EITHER MACHINERY, FACILITIES OR TECHNOLOGIES.

	COST		INCREASE IN SALES *(Commercial and Government)*
	PROSPECTIVE BUSINESS		UPGRADING PRESENT MACHINERY TO COPE WITH TODAY'S TECHNOLOGY AND COMPETITION
	CONTRACT AWARDS		NEW REGULATORY REQUIREMENTS
	RETURN ON INVESTMENT		HEALTH/SAFETY/ENVIRONMENTAL REQUIREMENTS
	LONG TERM STRATEGIC PLAN		REPLACEMENT OF OBSOLETE EQUIPMENT
	MARKET DEMANDS		CHANGE IN MANUFACTURING OUTPUT
	EFFICIENCY		PERFORMANCE REQUIREMENTS

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SECTION E - PRODUCTION CAPABILITIES OF FACILITY *(Continued)*	CAGE CODE	DATA DATE

30. MAJOR PLANT EQUIPMENT *(Indicate general classes and quantities)*

CLASS OF EQUIPMENT *(e.g., lathes, NC machining center, industrial sewing machines, specialized assembly equipment.)* a.	QUANTITY - COMPANY OWNED		QUANTITY - GOVERNMENT OWNED	
	TOTAL b.	FOREIGN MADE c.	TOTAL d.	FOREIGN MADE e.
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11)				
(12)				
(13)				
(14)				
(15)				
(16)				

31. IS DEFENSE ESSENTIAL PLANT EQUIPMENT, MANUFACTURING TECHNOLOGIES, PATENTS OR SOFTWARE OWNED WHOLLY OR IN PART BY FOREIGN CONCERNS OR GOVERNMENTS? *(X one)*

(NOTE: "Defense Essential" = A capability necessary to meet defense requirements that would require major investment and/or significant time to recreate if lost.)

☐ YES *(Explain)*

☐ NO

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32. DEFENSE ESSENTIAL INSPECTION/TEST EQUIPMENT AND SPECIAL TOOLING *(List and indicate quantities)*

EQUIPMENT a.	QUANTITY - COMPANY OWNED		QUANTITY - GOVERNMENT OWNED	
	TOTAL b.	FOREIGN MADE c.	TOTAL d.	FOREIGN MADE e.
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11)				
(12)				
(13)				
(14)				
(15)				
(16)				

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SECTION F - TECHNOLOGY	CAGE CODE	DATA DATE

33. DOES YOUR FACILITY POSSESS OR IS IT DEVELOPING CAPABILITIES TO SUPPORT THE ADVANCED TECHNOLOGIES LISTED BELOW?

TECHNOLOGY a.	HAVE NOW (X) b.	HAVE IN 5 YEARS(X) c.	OWNERSHIP RIGHTS d.	DUAL USE (Yes/No) e.	PROGRAM USED ON f.
(1) INTEGRATED CAD/CAM/CIM					
(2) INTEGRATED CIRCUIT MANUFACTURING					
(3) OPTICAL APPLICATIONS					
(4) DNC/INTEGRATED MANUFACTURING					
(5) THERMAL SPRAYING					
(6) AUTOMATED HANDLING					
(7) FLEXIBLE MANUFACTURING SYSTEMS					
(8) LASER CUTTING/WELDING					
(9) CELLS/GROUP TECHNOLOGY					
(10) COMPOSITES, CERAMICS, AND POWDERED METALS					
(11) ROBOTICS					
(12) CNC MACHINERY					
(13) VISION/INSPECTION SYSTEMS					
(14) AUTOMATED TEST EQUIPMENT					
(15) BAR CODING					
(16) SEMICONDUCTOR MATERIALS & MICROELECTRONIC CIRCUITS					
(17) SOFTWARE ENGINEERING					
(18) HIGH PERFORMANCE COMPUTING					
(19) MACHINE INTELLIGENCE & ROBOTICS					
(20) SIMULATION & MODELING					
(21) PHOTONICS					
(22) SENSITIVE RADARS					
(23) PASSIVE RADARS					
(24) SIGNAL & IMAGE PROCESSING					
(25) SIGNATURE CONTROL					
(26) WEAPON SYSTEM ENVIRONMENT					
(27) DATA FUSION					
(28) COMPUTATIONAL FLUID DYNAMICS					
(29) AIR BREATHING PROPULSION					
(30) PULSED POWER					
(31) HYPERVELOCITY PROJECTILES & PROPULSION					
(32) HIGH ENERGY DENSITY MATERIALS					
(33) COMPOSITE MATERIALS					
(34) SUPERCONDUCTIVITY					
(35) BIOTECHNOLOGY					
(36) OTHER:					

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SECTION F - TECHNOLOGY *(Continued)*	CAGE CODE	DATA DATE

34. IMPLEMENTATION *(Describe your implementation of any technologies identified in Item 33.b. or c.)*

35. DUAL USE TECHNOLOGIES *(Explain dual use technologies identified in Item 33.e.)*

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36. OVERALL STATE OF YOUR MANUFACTURING TECHNOLOGY AS COMPARED WITH YOUR INDUSTRY *(X one and explain)*

- [ ] LEADING
- [ ] AVERAGE
- [ ] TRAILING

37. WILL TODAY'S PLANT EQUIPMENT BE ABLE TO SUSTAIN PRODUCTION OF FUTURE PROCUREMENTS DRIVEN BY ADVANCED TECHNOLOGIES? *(X one and explain)*

- [ ] YES
- [ ] NO

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SECTION F - TECHNOLOGY *(Continued)*	CAGE CODE	DATA DATE

38. ARE YOU WILLING TO SHARE TECHNOLOGY DEVELOPMENTS WITH OTHER GOVERNMENT CONTRACTORS? *(X one. If No, explain circumstances under which you would be willing to share technology developments.)*

☐ YES
☐ NO

39. HAS YOUR FACILITY RECENTLY HAD ANY SPECIAL RECOGNITION FOR INVENTIONS, INNOVATIONS, OR ACHIEVEMENTS?

INVENTIONS, INNOVATIONS, ACHIEVEMENTS OR PATENTS a.	POINT OF CONTACT NAME *(Last, First, Middle Initial)* b.	TELEPHONE NUMBER *(Include area code)* c.
(1)		
(2)		
(3)		
(4)	DRAFT	
(5)		

40. IS TECHNOLOGY DEVELOPMENT DRIVEN BY COMMERCIAL MARKET, DEPARTMENT OF DEFENSE (DOD), OR OTHER MARKET DEMANDS? *(Explain)*

41. HAS YOUR FACILITY EVER PARTICIPATED IN OR RECEIVED FUNDS FOR THE FOLLOWING:

	PROGRAM a.	YEAR b.	TECHNOLOGY c.	INITIAL INVESTMENT d.	RETURN ON INVESTMENT	
					PROJECTED e.	ACTUAL f.
(1) MS&T						
(2) IR&D						
(3) TITLE III						
(4) MODERNIZATION						
(5) TRP						
(6) SBIR						
(7) OTHER:						

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SECTION G - CUSTOMER BASE *(Use as many copies of this page as necessary to list customers which account for a significant amount of your sales volume.)*	CAGE CODE	DATA DATE

42. LIST YOUR CUSTOMERS, ITEMS YOU MANUFACTURE OR SERVICES YOU PROVIDE FOR THEM, AND CUSTOMER PRODUCT LINES SUPPORTED *(List companies and items other than those identified in Section H.)*

a. (1) NAME	(2) TELEPHONE NUMBER *(Incl. area code)*	(3) FAX NUMBER *(Include area code)*	
(4) STREET ADDRESS	(5) CITY	(6) STATE	(7) ZIP CODE
(8) POINT OF CONTACT NAME *(Last, First, Middle Initial)*	(9) TITLE		
(10) YOUR MANUFACTURED ITEM(S) *(Name and Part Number)* OR SERVICE(S) *(Include Depot level repair)*	(11) YOUR CUSTOMER'S PRODUCT LINE(S) *(Next higher assemblies)*		
(a)			
(b)			
(c)			
(d)			
(e)			
(f)			
b. (1) NAME	(2) TELEPHONE NUMBER *(Incl. area code)*	(3) FAX NUMBER *(Include area code)*	
(4) STREET ADDRESS	(5) CITY	(6) STATE	(7) ZIP CODE
(8) POINT OF CONTACT NAME *(Last, First, Middle Initial)*	(9) TITLE		
(10) YOUR MANUFACTURED ITEM(S) *(Name and Part Number)* OR SERVICE(S) *(Include Depot level repair)*	(11) YOUR CUSTOMER'S PRODUCT LINE(S) *(Next higher assemblies)*		
(a)			
(b)			
(c)			
(d)			
(e)			
(f)			
c. (1) NAME	(2) TELEPHONE NUMBER *(Incl. area code)*	(3) FAX NUMBER *(Include area code)*	
(4) STREET ADDRESS	(5) CITY	(6) STATE	(7) ZIP CODE
(8) POINT OF CONTACT NAME *(Last, First, Middle Initial)*	(9) TITLE		
(10) YOUR MANUFACTURED ITEM(S) *(Name and Part Number)* OR SERVICE(S) *(Include Depot level repair)*	(11) YOUR CUSTOMER'S PRODUCT LINE(S) *(Next higher assemblies)*		
(a)			
(b)			
(c)			
(d)			
(e)			
(f)			
d. (1) NAME	(2) TELEPHONE NUMBER *(Incl. area code)*	(3) FAX NUMBER *(Include area code)*	
(4) STREET ADDRESS	(5) CITY	(6) STATE	(7) ZIP CODE
(8) POINT OF CONTACT NAME *(Last, First, Middle Initial)*	(9) TITLE		
(10) YOUR MANUFACTURED ITEM(S) *(Name and Part Number)* OR SERVICE(S) *(Include Depot level repair)*	(11) YOUR CUSTOMER'S PRODUCT LINE(S) *(Next higher assemblies)*		
(a)			
(b)			
(c)			
(d)			
(e)			
(f)			

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SECTION H - MANUFACTURED ITEM *(Use a separate copy of Section H (all pages) for each item requested.)*				**CAGE CODE**	**DATA DATE**
43.a. ITEM NAME					
b. NATIONAL STOCK NUMBER (NSN)	**c. PART NUMBER (P/N)**	**d. OTHER IDENTIFIER**	**e. UNIT OF MEASURE**	**f. SHELF LIFE** *(Years)*	
g. PRODUCTION LINE *(Area designation)*		**44.a. PRODUCTION MAN-HOURS TO PRODUCE ITEM**	**b. ENGINEERING MAN-HOURS TO SUPPORT ITEM**		

45. CONTRACT(S) *(List information for each contract number in the appropriate column.)*

	(a)	(b)	(c)
a. CONTRACT OR PURCHASE ORDER NUMBER(S)			
b. AWARD DATE			
c. COMPLETION DATE			
d. TOTAL CONTRACT QUANTITY			
e.(1) PROCUREMENT ACTIVITY			
(2) DODAAC			
(3) POINT OF CONTACT NAME			
(4) TELEPHONE *(Incl. area code)*			
f. UNIT PRICE			
g. PROGRAM(S) SUPPORTED			
h. CUSTOMER (1) NAME			
(2) ADDRESS *(Street, City, State, ZIP Code)*		DRAFT	

46. OWNER OF TECHNICAL DATA PACKAGE (TDP) *(For manufactured item specified in Item 43)*

47. DO YOU HAVE DEPOT LEVEL REPAIR/REBUILD CAPABILITY FOR THIS ITEM? *(X if applicable)*

- [ ] REPAIR
- [ ] REBUILD

48. IS YOUR PLANT A SOLE/SINGLE SOURCE FOR THIS ITEM? *(X if applicable)*

- [ ] **SOLE SOURCE** *(The only known producer for the item; no other production capability exists.)*
- [ ] **SINGLE SOURCE** *(A qualified source identified by the contracting activity as the only source. However, other sources are known to have the capability to manufacture the item.)*

49. POSSIBLE ALTERNATE SOURCES

MANUFACTURER NAME a.	CAGE CODE b.	CITY c.	STATE d.	ZIP CODE e.	COUNTRY f.
(1)					
(2)					
(3)					
(4)					

50. MANUFACTURING LEAD TIME *(In weeks)*

a. GOVERNMENT INITIAL ORDER	b. GOVERNMENT REPEAT ORDER	c. COMMERCIAL INITIAL ORDER	d. COMMERCIAL REPEAT ORDER

DEFINITIONS:

MANUFACTURING LEAD TIME: The interval between date a manufacturer accepts a firm order and shipment date of first complete production unit.
GOVERNMENT: Produced to government/military specifications.
COMMERCIAL: Produced to commercial specifications.
INITIAL ORDER: Lead time required to design and produce a component within the state-of-the-art (without extensive Research & Development) by a manufacturer that has not previously produced the component.
REPEAT ORDER: Lead time required, after a complete break in product, to produce an item identical, except for minor changes, to one made on a previous order.

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SECTION H - MANUFACTURED ITEM *(Continued)*

NSN OR PART NUMBER	PRODUCTION LINE *(Area designation)*	CAGE CODE	DATA DATE

51. PRODUCTION CAPACITY RATES

DEFINITIONS

CURRENT PRODUCTION RATE:	Number of units being produced per month to meet current contractual requirements.
STAND ALONE:	Identify capability as if producing only this item and no others.
MAXIMUM PRODUCTION RATE:	Accelerated production with existing facilities and equipment in a peacetime environment. No declared national emergency.
CONCURRENT:	Consider all other ongoing or planned commercial and Government production.
INITIAL PRODUCTION:	Entries should be made as follows: If production will be 200 in the 7th month, your entry would be 200/7.
MINIMUM SUSTAINING RATE:	The lowest monthly production rate at which your plant can produce this item without increasing the unit cost on a 1-8-5 shift basis.
ECONOMIC ORDER QUANTITY:	The optimum (least cost) quantity of items which should be produced monthly.
COLD BASE:	A manufacturing facility/line that is not scheduled to be producing an item unless mobilization occurs.
WARM BASE:	Those producers with active production contracts for the item(s) under construction.

a. CURRENT PRODUCTION RATE	b. CURRENT SHIFT BASIS	c. ESTIMATED MONTH AND YEAR PRODUCTION LINE GOES COLD *(MM/YY)*

	SHIFT BASIS *(1-8-5, 2-8-5, 3-8-5, etc.)* d.	INITIAL PRODUCTION FROM COLD BASE *(Quantity/month achieved)* e.	MAXIMUM PRODUCTION RATE FROM WARM BASE *(Quantity/month achieved)* f.	MAXIMUM PRODUCTION RATE FROM COLD BASE *(Quantity/month achieved)* g.
(1) CONCURRENT				
(2) STAND ALONE				

h. MINIMUM SUSTAINING RATE	i. ECONOMIC ORDER QUANTITY

52. CRISIS REQUIREMENTS *(X one) (To be completed by Government personnel only when needed for crisis preparedness planning.)*

- [ ] PLANNING PERSONNEL HAVE DETERMINED A POTENTIAL DEMAND OF _____ PER MONTH.
- [ ] PLANNING PERSONNEL HAVE DETERMINED A POTENTIAL CUMULATIVE DEMAND OF _____ WITHIN _____ MONTHS.
- [ ] THERE ARE NO CRISIS REQUIREMENTS FOR THIS ITEM. DO NOT COMPLETE ITEM 53.

53. PRODUCTION BOTTLENECKS *(If your maximum concurrent production rate is less than 100% of the requirement in Item 52, identify any bottlenecks to fulfilling the indicated demand. Place in rank order if more than one bottleneck exists.)*

	BOTTLENECK OR PROBLEM a.	MONTHS TO FIX b.	COST TO FIX c.
(1)			
(2)	DRAFT		
(3)			
(4)			

54. SHARED LINE CAPACITY

a. DOES THIS ITEM SHARE LINE CAPACITY WITH OTHER ITEMS? *(X one)* [ ] YES [ ] NO

b. IF "YES", WERE THESE ITEMS USED IN DEVELOPING THE CONCURRENT RATES FOR THIS ITEM? *(X one)* [ ] YES [ ] NO

c. IF 54.b. IS "YES", IDENTIFY ALL ITEMS *(Government and commercial)* THAT WERE USED TO DEVELOP CONCURRENT RATES

	ITEM (1)	NSN OR PART NUMBER (2)
(a)		
(b)		
(c)		
(d)		

55. COST AND TIME TO REGENERATE PRODUCTION CAPABILITY *(Indicate cost and time to regenerate production capability after the production break periods below. Assume no preservation action taken by the Government)*

	PRODUCTION BREAK					
	3 MONTHS a.	6 MONTHS b.	12 MONTHS c.	24 MONTHS d.	36 MONTHS e.	48 MONTHS f.
(1) % OF LABOR LOST DURING BREAK						
COST TO REGENERATE AFTER BREAK:						
(2) FACILITY						
(3) LABOR						
(4) OTHER						
TIME TO REGENERATE AFTER BREAK						
(5) FACILITY						
(6) LABOR						
(7) TIME FOR FIRST UNIT DELIVERY AFTER BREAK						
(8) COST OF FIRST UNIT AFTER BREAK						

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SECTION H - MANUFACTURED ITEM *(Continued)*

NSN OR PART NUMBER	PRODUCTION LINE *(Area designation)*	CAGE CODE	DATA DATE

56. DEFENSE ESSENTIAL *("Defense Essential" is defined as a capability necessary to meet defense requirements that would require major investment and/or significant time to recreate if lost.)*

a. DEFENSE ESSENTIAL TRADES, SKILLS, OR PROFESSIONS

TRADE, SKILL, OR PROFESSION (1)	NUMBER CURRENTLY EMPLOYED (2)	NUMBER SHORTAGE		MONTHS TO HIRE (5)	MONTHS TO TRAIN (6)	COST TO TRAIN (7)
		CURRENT YEAR _____ (3)	+2 YEARS (4)			
(a)						
(b)						
(c)						
(d)						
(e)						

b. DEFENSE ESSENTIAL FACILITIES *(Identify and briefly describe defense essential facilities. Include estimated cost and time to replace these facilities. Indicate if owned wholly or in part by foreign concerns or governments.)*

c. DEFENSE ESSENTIAL PLANT EQUIPMENT *(Identify and briefly describe defense essential plant equipment. Include estimated cost and time to replace this equipment. Indicate if owned wholly or in part by foreign concerns or governments.)*

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d. DEFENSE ESSENTIALTECHNOLOGIES *(Identify and briefly describe defense essential technologies. Include estimated cost and time to replace these technologies.)*

e. SPECIAL ACTIONS REQUIRED TO MAINTAIN DEFENSE ESSENTIAL TRADES/SKILLS/PROFESSIONS, TECHNOLOGIES, FACILITIES, OR PLANT EQUIPMENT *(If any. Include estimated cost and time to accomplish the special action.)*

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SECTION H - MANUFACTURED ITEM *(Continued)*

NSN OR PART NUMBER	PRODUCTION LINE *(Area designation)*	CAGE CODE	DATA DATE

57. KEY SUBCONTRACTORS *(For each subcontractor that may inhibit you from meeting cost, schedule, or performance requirements, use an additional copy of this page.)*

a. SUBCONTRACTOR

(1) NAME		(2) POINT OF CONTACT NAME *(Last, First, Middle Initial)*		
(3) TELEPHONE NUMBER *(Include area code)*		(4) OTHER IDENTIFIER		
(4) STREET ADDRESS	CITY	STATE	ZIP CODE	COUNTRY

b. MANUFACTURED ITEM

(1) ITEM NAME	(2) NSN	(3) PART NUMBER

(4) MANUFACTURING LEAD TIME *(In weeks)*	(5) QUANTITY PER NEXT HIGHER ASSEMBLY	(6) UNIT COST

c. RISK RANK AND CONSTRAINTS *(Using codes below, determine the risk ranking of this facility and select up to five constraint codes.)*

(1) RISK RANK	(2) TOP FIVE CONSTRAINTS *(High to low)*				

RISK RANK CODES

- **L** = Low risk. Should be able to produce acceptable items beyond 5 years.
- **M** = Medium risk. May face problems producing acceptable items in 2 to 5 years.
- **H** = High risk. May face problems producing acceptable items in 0 to 2 years.

CONSTRAINT CODES *(Some of these constraints may be company/division versus product oriented; some apply to both company and product.)*

- **AM** Acquisition/merger - present or future concerns.
- **AP** Approval process too lengthy - causes slippage.
- **AT** Aging tools, equipment, and/or processes.
- **BI** Business/economic issues affect production.
- **BV** Business volume is too low - future uncertain.
- **CC** Critical component, part, assembly, etc.
- **CI** Capacity issues - limits may affect production.
- **CM** Critical material(s) may affect production.
- **CO** Cost issues impact production.
- **CP** Capability issues - limits may affect output.
- **DO** Documentation/specifications may cause problems.
- **DS** Diminishing manufacturing sources - economy, politics, etc.
- **EN** Environmental issues affect production.
- **FD** Foreign dependent - only source is outside U.S.A.
- **FS** Foreign source - by choice is outside U.S.A.
- **GA** Government availability causes slippage.
- **IO** Investment opportunity for improved output.
- **LA** Labor issues - unions, health, welfare, etc.
- **LI** Liability/litigations that affect production.
- **LL** Long lead/pacing item(s) that affect schedule.
- **LP** Low or no profits that may affect contracts.
- **MO** Moves and major relocations - affecting output.
- **MV** Too many vendors - many sources cause problems.
- **OS** Occupational safety issues affect production.
- **PO** Policy issues not conducive to meeting goals.
- **PP** Proprietary process/material - only source.
- **PQ** Production quality issues affect output.
- **SC** Surge/crises/resupply - hinders output.
- **SK** Skilled labor required to sustain production.
- **SO** Sole source - only one capable of making product.
- **SS** Single qualified source - others could qualify.
- **ST** Special tests and/or equipment a pacing item.
- **TH** Transportation/handling affects schedule.
- **TO** Tooling shortage - limited availability.
- **TT** Technology transfer - poor TT hinders production.
- **ZZ** Other *(Specify)*

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d. IF YOU IDENTIFIED CONSTRAINT CODE "EN", DESCRIBE THE ENVIRONMENTAL ISSUE

e. IF YOU IDENTIFIED CONSTRAINT CODE "SS", LIST ALTERNATE SOURCE(S) *(Include city, state, ZIP code, and country)*

f. IF YOU IDENTIFIED CONSTRAINT CODE "FS", IS THIS ITEM AVAILABLE DOMESTICALLY? *(X one)*

		(1) TIME TO QUALIFY A DOMESTIC SOURCE *(Months)*	(2) COST
☐	YES *(Complete (1) and (2))*		
☐	NO		

g. EXPLAIN IMPACT OF LOSS OF THIS SOURCE

INSTRUCTIONS FOR DD FORM X277, "INDUSTRIAL CAPABILITIES QUESTIONNAIRE"

NOTE TO ALL USERS: This form is used to collect industrial capability information. All in-house Government sources of information are to be searched for applicable data which is then entered on the form by Government personnel prior to presenting the form to contractors. Contractors may then be requested to verify the Government data and to supply any missing data for the form.

Participation by contractors is voluntary. The signatures attest that the information contained herein is provided for the sole purpose of gauging the adequacy of the U.S. industrial base in accordance with applicable laws and regulations. Further, the signatures indicate an awareness of the Government's dependence upon accurate data as a basis for appropriate and often costly measures to insure sufficient and timely support to our U.S. warfighters. The signatures hereon in no way bind the named firm(s) nor the Government in any contractual relationship, nor is acceptance to be construed as an agreement by industry to maintain production capability as indicated herein, nor is the Government obligated to contract with the named firm if procurement of the items specified herein is required. It is understood that access to this data will be limited to duly accredited officials of the Department of Defense who are subject to penalties for unlawful disclosure. The protection given to data relating to your facility under the espionage act and other statutes will confine accessibility within the Government to those responsible for the defense of the United States.

COVER - FACILITY IDENTIFICATION AND OVERALL OPINIONS

This cover identifies industrial base entity, location, size, parent, foreign ownership, and lets the Contractor identify any other important issues to the Government and recommend possible solutions.

1.a. Name of Company or U.S. Government Department/Facility. This is respondent's legal name and includes qualifiers such as division, subsidiary, and/or the next higher organizational entity. This block is the location about which information is being collected. Do not include information about off-site locations that have no capability to support requirements. Use the following abbreviations (no punctuation is required):

CO (Company)	CORP (Corporation)	DIV (Division)
INC (Incorporated)	IND (Industries)	INTL (International)
LTD (Limited)	MFG (Manufacturing)	SUB (Subsidiary)

1.b. Address. Street address includes post office box number, if used, as well as a physical street address, city, state, and zip code. Use standard two character abbreviations for states; use province instead of state if entity is Canadian. Nine digit zip codes are preferred for U.S. entities; 10 character zip codes for Canadian entities. Use the following abbreviations (no punctuation is required):

AVE (Avenue)	BLVD (Boulevard)	DR (Drive)
HWY (Highway)	LN (Lane)	ST (Street)
PO (Post Office)	RD (Road)	TNPK (Turnpike)
XWAY (Expressway)		

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1.c. DUNS Number. This is a nine character code assigned by Dun & Bradstreet Financial Services that identifies corporate entities.

1.d. CAGE Code. This is the acronym for Commercial and Government Entity. It is a five character, alphanumeric designator number and identifies contractors doing business with the Government, located in the U.S., Canada, NATO member nations, and other foreign governments. (The CAGE Code was formerly known as FSCM.) The CAGE Code whould also be entered in the appropriate block at the top right corner of all following pages. If a contractor facility has multiple CAGE Codes, contact the Industrial Analysis Support Office for assistance.

1.e. DODAAC. This is the Department of Defense Activity Address Code for the DCMC representative (DCMAO or DPRO). DODAAC listing is contained in DoD 4000.25-6-M, DoD Activity Address Directory.

1.f. Status of Ownership. Mark (X) the appropriate block. "Publicly Traded" should be marked if this company's stock is traded on the public stock exchange. Mark "Privately Held" if not a stock held company. "Foreign" is defined as a facility located in countries other than the United States or Canada. If "Foreign" has been marked, please indicate the percentage of foreign ownership.

1.f. *(Continued)* For Government owned facilities, mark either GOGO for Government Owned Government Operated or GOCO for Government Owned Contractor Operated.

1.g. Manufacturing Site Point of Contact: Name, Title, Telephone Number, Fax Number, Signature and Date. Enter the manufacturing site primary point of contact, job title, telephone and facsimile number, including area code. Indicate Defense Switched Network by using acronym "DSN". The primary point of contact should provide a signature and date.

1.h. Government Representative. Name, Title, Telephone Number, Fax Number, Address, Signature and Date. Government representative's name shall be the designated DCMC industrial base representative assigned to this entity. Include job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN". Address shall include street address, city, state, and zip code. The Government representative should provide a signature and date.

2.a. Name of Parent Company. This is the name of manufacturing site's parent company and/or the next higher organizational entity. Use abbreviations provided in the instructions for Item 1.a. If Government owned, this block should cite component's identity and command: i.e., U.S. Army Tank and Automotive Command; U.S. Navy, Naval Sea Systems Command; U.S. Air Force, Air Force Materiel Command.

2.b. Address. Enter the address for the parent company. Use abbreviations provided in the instructions for 1.b.

2.c. DUNS Number. Enter the DUNS Number for the parent company. See definitions in the instructions for 1.c.

2.d. CAGE Code. Enter the CAGE Code for the parent company. See definition in the instructions for 1.d.

2.e. DODAAC. Enter the DODAAC for the DCMC representative (DCMAO or DPRO) for the parent company location. See definition in the instructions for 1.e.

2.f. Primary Point of Contact. Enter the parent company point of contact, job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN".

2.g. Name of Previous Parent Company (If Changed in the Past Two Years). Self-explanatory.

3.a. Subsidiary or Division Name (if different from Item 1). Enter the manufacturing site's subsidiary or division name if different from Item 1 above. Use the abbreviations in the instructions for Item 1.a.

3.b. Address. Enter the address of the subsidiary or division. Use the abbreviations in the instructions for 1.b.

3.c. DUNS Number. Enter the DUNS Number for the subsidiary or division. See definition in the instructions for 1.c.

3.d. CAGE Code. Enter the CAGE Code for the subsidiary or division. See definition in the instructions for 1.d.

3.e. DODAAC. Enter the DODAAC for the DCMC representative (DCMAO or DPRO) for the subsidiary or division location. See definition in the instructions for 1.e.

3.f. Primary Point of Contact. Enter the subsidiary or division primary point of contact, job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN."

4.a.-c. Issues/Recommendations. Self-explanatory.

5. Industrial Base Issues. Self-explanatory.

6. Additional Remarks. Self-explanatory. This block may be used by the Government representative to annotate any areas of disagreement between the contractor and the Government regarding the information provided on the form.

SECTION A - FACILITY DESCRIPTION

This section provides physical information on the facility, such as type, floor space, acreage, transportation, energy, and the impact of environmental/safety requirements.

7.a. Type of Facility. Mark (X) all that apply.
Assembly - assembly of parts manufactured here or at other facilities.
Parts Manufacturing - fabrication of the majority of a part or item.
Research and Development - activities related to new items or prototypes.
Distribution - movement of items between geographic locations.
Engineering - activities related to already developed and manufactured items.
Depot Level Repair - activities related to major repair, rebuild, overhaul, upgrades and maintenance.
Chemical Processing - activity such as mixing, compounding, plating, distillation, extrusion, heat treatments, etc.
Other - If this block is marked, please explain.

7.b. Production. Mark (X) all that apply.
Mass Production - facility manufactures item or group of items on a continuous basis in large lots.
Job Lot - Facility manufactures items in low volume.
Custom - unique or specialized production on a low production rate.

7.c. Floor Space. Identify floor space in square feet. "Used" floor space is total floor space less unused floor space. "Unused" floor space is area that is vacant and could be used to expand production.

7.d. Storage. Identify "Covered (Outdoor)", "Uncovered (Outdoor)" and "Total Storage (Indoor)" in square feet. "Covered (Outdoor)" storage includes structures that provide protection from the elements as well as physical security.

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7.e. Acreage. Identify facility's total acreage, developed area, and area available for expansion. Developed area includes space occupied by buildings, assembly, production, test, and storage areas (aircraft hangars, drydocks, launch pads, firing ranges, etc.), traffic accesses, vehicle parking lots, drainage pools, and physical security barriers. Area available for expansion includes land readily available for construction without extensive site modification.

7.f. Leased Facilities. If "Yes", identify percent of leased facilities, leaseholder and lease expiration date.

7.g. Transportation. Identify all types of transportation used at this facility, including any restrictions that may apply, such as weight, height, and width limitations, noise/environmental regulations, tide levels, etc.

7.h. Energy Required. Identify types of energy that are required for plant operations.

8. Environmental/Safety Requirements. Rank order of any environmental/safety requirements that impact production now and/or potentially will impact production five years from now. Include a description of any actions you plan to take or recommend to overcome these issues.

SECTION B - BUSINESS PROFILE.

This section provides sales volume and business information. This information is only applicable to the facility where data is being collected, not the entire corporate entity.

9. Annual Value of Sales (Both Historic and Projected). Base year is the most recent calendar year for which complete data is available. Base year data is never projected, only actual.
a. Total Sales (in Millions) is the total of all commercial and Government sales for a calendar year.

SECTION B *(Continued)*

9.b.-e. Provide Percent breakdown of **Commercial, Direct Foreign Sales, Foreign Military Sales, and Total U.S. Government.** Provide Percent breakdown of Total U.S. Government into (1) Army, (2) Navy, (3) Air Force, (4) DLA, (5) Ballistic Missile Defense Organization, and (6) Non-DoD U.S. Government.

10. Investment and Backlog (Both Historic and Projected).
a. Capital Investment. Outlay of money to acquire or improve capital assets such as buildings and machinery.
b. Total R&D Investment. Outlay of money (independent and contract) to improve processes and formulas and the development of new and improved products.
c. Government Backlog (in dollars). The total Government work input (funded and unfunded) which is in excess of the current workload capability of the manufacturer at any given point in time.
d. Government Backlog (in months). Number of months to clear total Government backlog.
e. Commercial Backlog (in dollars). The known commercial work input which is in excess of the current workload capability of the manufacturer at any given point in time.
f. Commercial Backlog (in months). Number of months to clear commercial backlog.

SECTION C - LABOR.

This section is collected to ascertain the facility's labor base and the effect of the DoD budget by using site employment, historical, current and projected employment and production rates.

11. Current Site Employment Levels. Break down current site employment levels, including number of personnel, personnel by shift, hours per day, and days per week.

12. Employment Levels over the Past Five Years and Projections. Total employment at the end of each calendar year. Base year is the most recent calendar year for which complete data is available.

13. Trades, Skills, or Professions Affected by Lower Production Rates. Enter specific trades, skills, or professions. Use descriptive terms, e.g., software or radiological engineers, ballistic scientists, optical lens grinding technicians, etc. Indicate how long it would take to rehire and retrain these workers by marking the appropriate column.

14. Make or Buy Decisions. Mark "Yes" or "No" and explain.

15. Unions. Self-explanatory.

SECTION D - MATERIAL ISSUES.

This section identifies strategic and critical material that are essential to production and determines material availability trends and how they may affect end item production.

16.b. Essential to Production. Place an X in this column to indicate materials that are essential to DoD production at your facility. For those items marked in column b., provide information in columns c. through g.

16.c. Supplier. Provide the supplier name for any item marked in column a.

16.d. FS/FD. Indicate FS for materials with a source outside the U.S. or Canada by choice, FD for materials whose only qualified source is outside the United States or Canada.

16.e. and f. Problems. Indicate with an X if you have problems in the current year, or anticipate problems five years from now.

16.g. Affect Demand. Indicate if your use of any material will significantly affect U.S. demand.

17. Description. Self-explanatory.

SECTION E - PRODUCTION CAPABILITIES OF FACILITY

This section provides total production capacity and capability information for the facility. This section provides an understanding of investment patterns within the Industrial Base and what plant, inspection and test equipment is available.

18.a. Items or Classes of Items. Items are defined as systems, subsystems, components, equipment, supplies, or services; items can be manufactured at any tier associated with any sector of the Industrial Base that supports Defense or other Government requirements. Classes of items are general categories which are similar in design and manufacture but which may have different part numbers or specific values (e.g., resistors, capacitors, valves, tires, etc.). The items and classes of items listed in column a. should be those which account for a significant part of the facility's production capacity and/or sales volume and which have not been requested separately in Section H.

18.b. Percent of Capacity. List the percent of manufacturing facilities dedicated to the production of the items or classes of items listed in 18.a.

18.c. Shift Basis. Describe the shift currently in use to produce the items or classes of items listed in 18.a. using shift(s), hours per day, days per week (e.g., 1-8-5 means 1 shift per day, 8 hours per day, 5 days per week).

18.d. Percent of Production Assembled from Components of Outside Sources. Provide the percentage (based on cost) of manufactured components that are supplied by outside vendor(s) and used in the items or classes of items listed in 18.a.

19. Future Expansion Plans or Capital Equipment Purchases. Indicate which of the items listed in 18.a. will be affected by each future expansion/capital equipment purchase identified.

20. Capacity/Capabilities. Self-explanatory. Use the instructions and codes provided on form to fill out this item.

DRAFT

21. Major Facility Constraints. Select all of the constraints to production that restrict or hamper the ability to produce at this facility.

22. Manufacturing Capacity Now Used for Commercial Work. Indicate whether the skills, processes, facilities and/or technologies used for commercial production can be used or converted for defense production.

23. Alternate Suppliers. Identify any item and list alternate suppliers if you do not intend to maintain production capability.

24. Forecast Increase or Reduction of Manufacturing Capacity. Self-explanatory.

25. Pursuit of Commercial Business. Self-explanatory.

26. Prospects for Increasing Foreign Sales. Self-explanatory.

27.a. Reduction in Contracts/Plant Closure. Self-explanatory.

27.b. Contracts Absolutely Vital to Survivability. Select all vital customers and connect contracts or programs with each one.

28. Actual Capacity Utilization and Projections. Indicate actual capacity utilization for the four previous years, the current year, and project capacity utilization for the two years into the future. Indicate the base year at the top of column e. Base year is the most recent calendar year for which complete data is available.

SECTION E *(Continued)*

28. *(Continued)* Maximum production rate (1-8-5) is defined as accelerated production with a 1-8-5 shift basis and existing facilities and equipment in a peacetime environment with no declared national emergency. Current plant output is defined as the average annual production.

29.a. Facility Modernization Improvement Programs. Provide percentage of gross sales applied to each category over the four previous years, the base year, and two projected years. Indicate the base year at the top of column (f). Base year is the most recent calendar year for which complete data is available.

29.b. Factors Influencing Capital Investments. Self-explanatory.

30. Major Plant Equipment. List and indicate number of company owned, Government owned major plant equipment.

31. Ownership of Defense Essential Equipment, Technologies, Patents, or Software. Self-explanatory.

32. Defense Essential Inspection/Test Equipment and Special Tooling. List and indicate number of company owned, Government owned, and foreign made inspection/test equipment and special tooling that is defense essential.

SECTION F - TECHNOLOGY

This section is designed to capture information relevant to this facility's existing/future capability to support advanced technologies.

33.b. Have Now. Mark (X) this column if your facility uses the technology now.

33.c. In 5 Years. Mark (X) this column if your facility will be using the technology in 5 years.

33.d. Ownership Rights. Indicate who has ownership rights to the selected technologies.

33.e. Dual Use. Indicate "Yes" if the selected technology is usable for both commercial and defense applications, "No" if not.

33.f. Program Used On. List the defense program that the selected technology is used on.

34. Implementation. If you marked any technologies in 33.b. or c., describe your implementation of those technologies.

35. Dual Use Technologies. If you identified any technologies in 33.e., explain any modifications to the technology that are required for dual use application, and list commercial applications.

36. Overall State of Manufacturing Technology. Characterize your overall state of manufacturing technology as compared with the rest of your industry as either "Leading," "Average," or "Trailing," and explain your reasons for this ranking.

37. Will Today's Plant Equipment Sustain Production of Future Procurements. Self-explanatory.

38. Share Technology. Self-explanatory.

39. Inventions, Innovations, or Achievements. Self-explanatory.

40. Technology Drivers. Explain which market demands drive your technology development and how it is driven.

SECTION F *(Continued)*

41. Participation in/Receipt of Government Funds. Provide information on the following programs:

MS&T - Manufacturing Science and Technology Program, formerly known as ManTech or Manufacturing Technology.

IR&D - Independent Research and Development.

Title III - Title III of the Defense Production Act. This program provides incentives to create or expand domestic production capability for new materiel essential to national defense.41.

Modernization - Any of several modernization programs, including Industrial Modernization Incentives Program (IMIP), Factory Modernization (FacMod), and Technology Modernization (TechMod).

TRP - Technology Reinvestment Program.

SBIR - Small Business Innovative Research Program.

SECTION G - CUSTOMER BASE

This section is collected to determine the manufacturer's commercial and Government customers which account for a significant amount of the facility's sales volume.

42. Customers, Items, Services and Product Lines. Self-explanatory.

SECTION H - MANUFACTURED ITEM

This section is used to gather item specific production capability data for items identified by DoD as critical to the U.S. and Canadian defense effort.

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43.a. Manufactured Item. Manufactured item may be a system, subsystem, component, equipment, supply or service. This item is always filled in by the Government requestor.

43.b. National Stock Number (NSN). List the National Stock Number for the item in 43.a., if applicable.

43.c. and d. Part Number or Other Identifier. List if no NSN has been assigned.

43.e. Unit of Measure. List for the item in 43.a. Examples are: Each, barrels, rounds, liters, inches, feet, etc.

43.f. Shelf Life. Enter in years for the end item.

44. Man-Hours. Self-explanatory.

45.a. Contract or Purchase Order Number(s). List for the end item identified in 43.a.

45.b. Award Date. List year, month, and day (YYMMDD) for each contract and/or purchase order for the end item.

45.c. Completion Date. List year, month, and day (YYMMDD) for each contract and/or purchase order for the end item; enter date for last item if multi-year delivery is in effect.

45.d. Total Contract Quantity. List for each contract and/or purchase order for the end item.

45.e.(1)-(4). Procurement Activity. Enter activity name, DODAAC, point of contact, and telephone number for each contract/purchase order identified in 45.a.-c.

45.f. Unit Price. List the contract prices for the end item associated with contracts/purchase orders listed in 45.a.

SECTION H *(Continued)*

45.g. Programs Supported. List the program that the end item supports (e.g., M1A1 tank, Mk50 torpedo, etc.). If unknown, identify Military Service or other Government Agency.

45.h. Customer. List the name and address for any customer that requires the item in 43.a.

46. Technical Data Package Owner. Identify the activity (Government or contractor) who owns the item's Technical Data Package (TDP). If Government, identify the specific activity. TDP's usually consist of operator's manuals, research and engineering data, technical drawings, and performance or design type documents.

47. Depot Level Repair/Rebuild Capacity. Self-explanatory.

48. Sole/Single Source. Mark the appropriate box. "Sole Source" is the only known producer for the item, no other production capability exists. "Single Source" is a qualified source identified by the contracting activity as the only authorized source.

49. Possible Alternate Sources. List possible alternate sources for the same type of item, including CAGE Code and City/State/ZIP Code/Country.

50. Manufacturing Lead Time. Indicate intervals in weeks.

51. Production Capacity Rates. Self-explanatory. Definitions are included on form.

52. Crisis Requirements. To be filled out by Government data requestor.

53. Production Bottlenecks. Complete only if Item 52 was completed.

54. Shared Line Capacity. Self-explanatory.

55. Cost and Time to Regenerate Production Capacity. Self-explanatory.

56.a. Defense Essential Trade, Skill, or Profession. For each manufactured item, identify the specific trade, skill, or profession that is defense essential, the number currently employed (required to meet contract commitments), any current or projected shortages (number needed to fill vacant positions). If shortages are identified, indicate the months to hire, months to train, and cost to train.

56.b. Defense Essential Facilities. For each manufactured item, identify any defense essential facilities, including extent of foreign ownership, and estimated cost and time to replace.

56.c. Defense Essential Plant Equipment. For each manufactured item, identify any defense essential plant equipment, including extent of foreign ownership, and estimated cost and time to replace.

56.d. Defense Essential Technologies. For each manufactured item, identify any defense essential technologies, including estimated cost and time to replace.

56.e. Special Actions. Self-explanatory.

57. Key Subcontractors. Use a separate page for each subcontractor that may inhibit the contractor from meeting cost, schedule, or performance requirements.

[FR Doc. 95–9302 Filed 4–14–95; 8:45 am]
BILLING CODE 5000–04–C

Office of the Secretary

Announcement of Public Hearing and Notice of Availability of the Draft Environmental Impact Statement (DEIS) for Land Use and Development Plan, Bellows Air Force Station, Waimanalo, HI

AGENCY: U.S. Pacific Command, DOD.

ACTION: Notice.

SUMMARY: The U.S. Pacific Command (USCINCPAC) is announcing the availability of the DEIS for a Land Use and Development Plan at Bellows Air Force Station (AFS), Waimanalo, Hawaii. A public hearing on the DEIS will be held on May 9, 1995 at 7:00 p.m. at the Waimanalo Elementary and Intermediate School Cafeteria, 41–1330 Kalanianaole Highway, Waimanalo, Hawaii.

The Public hearing will be conducted by the Navy on behalf of USCINCPAC. Government 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. To assure accuracy of the record, statements can also be submitted in writing. Both oral and written statements will become part of the public record on this study, with equal weight given to each.

In the interest of available time, speakers will be asked to limit their comments to five minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or by mailing to the point of contact identified below.

DATES: The public hearing will be held on May 9, 1995 at 7:00 p.m. Written comments on the DEIS must be postmarked by May 30, 1995.

ADDRESSES: Request for single copies of the DEIS and submittal of written comments for inclusion into the official record should be forwarded to Gary Kasaoka (Code 235), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300.

FOR FURTHER INFORMATION CONTACT: Gary S. Kasaoka (Code 235) by voice/telephone at (808) 471–9338 or facsimile transmission at (808) 474–4890.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the U.S. Pacific Command has prepared and filed with the U.S. Environmental Protection Agency the above referenced Draft Environmental Impact Statement.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9303 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces.

The Commission is charged with providing an independent review of the roles and missions of the armed services to Congress, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. The year-long review will identify changes that can be made to improve military effectiveness and eliminate unnecessary duplication among the services. The purpose of this meeting is to discuss some of the specific roles and missions issues that are being developed for consideration by the Commission. Material to be discussed will consist of both classified and unclassified information in a format that makes it impractical to separate the two.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–453, as amended (5 U.S.C. App II), it has been determined that this Commission on Roles and Missions meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that, accordingly, this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9306 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Defense Environmental Response Task Force

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security).

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 (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental response actions at military installations being closed or realigned. The purpose of the meeting is to follow up on the January 17–19, 1995, meeting. The DERTF will also discuss issues related to Superfund reform, unexploded ordnance, and the fast track cleanup program. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the DERTF should contract Shah Choudhury, Executive Secretary, and prepare a written statement that can be summarized orally before the DERTF at the time to be fixed for public witnesses. Written statements must be received by the close of business, May 5, 1995, at the Office of the Under Secretary of Defense (Environmental Security).

DATES: May 23, 1995, 8:00 a.m.–4:30 p.m.; May 24, 1995, 9:45 a.m.–9:00 p.m.

PUBLIC COMMENT PERIOD IS: May 24, 1995, 7:00 p.m.–8:00 p.m.

ADDRESSES: 295 North E Street, San Bernardino, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400; telephone (703) 697–7475.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9304 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, April 20, 1995.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II section 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9305 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of hearing.

SUMMARY: The National Advisory Council on Indian Education invites the public to attend a one-day hearing conducted by the Council. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: Monday, April 24, 1995 from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The hearing will be held at the Quality Inn, 2300 E. Shawnee, Muskogee, Oklahoma 74403, (918) 683–6551, Fax (918) 682–2877.

FOR FURTHER INFORMATION CONTACT: John W. Cheek, Acting Director, National Advisory Council on Indian Education, 330 C Street, S.W., Room 4072, Switzer Building, Washington, DC 20202–7556. Telephone: 202/205–8353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, Title V, Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

The National Advisory Council on Indian Education is scheduling a one-day hearing for Monday, April 24 in order to solicit comments from the Indian community on proposed changes within the Office of Indian Education. The hearing will also provide an opportunity for the public to provide feedback on a proposed initiative within the Department of Education on how best to obtain consultation with Indian Nations regarding programs for Indian students. The hearing allows participants the opportunity to present written and/oral testimony on any issues affecting Indian education. Five general areas that may be addressed include: Tribal sovereignty/Trust Responsibility; Education Policy Development; the Impact of Goals 2000, A Tribal Perspective; Native Language and Culture; and the Federal Budget. Any submitted testimony may address one of the previously mentioned topic areas and follow this format: Statement of the problem; statement of desired remedy or solution; argument on behalf of desired remedy; and identification of who needs to do what and who oversees its follow through. Other testimony from topic areas not specifically addressed by the summit are also welcome. Findings, from the hearing will be utilized in the overall agenda of the National Advisory Council on Indian Education and will provide the basis for future consideration in annual report to Congress. Participants wishing to present written and/or oral testimony are requested to submit any documentation to the staff of the National Advisory Council on Indian Education prior to the hearing if possible and no later than 5:00 p.m. on the day of the hearing. Testimony may also be faxed to the NACI office at (202) 205–9446 any time prior to the hearing date.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Indian Education located at 330 C Street S.W., Room 4072, Washington, DC 20202–7556 from the hours of 9:00 a.m. to 4:30 p.m. Monday through Friday.

Dated: April 10, 1995.

John W. Cheek,

Acting Director, National Advisory Council on Indian Education.

[FR Doc. 95–9463 Filed 4–14–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Wetland Involvement for Operable Unit 5 Pilot Plant Drainage Ditch Project at the Fernald Environmental Management Project

AGENCY: Department of Energy (DOE), Fernald Area Office.

ACTION: Notice of wetland involvement.

SUMMARY: This is to give notice of DOE's proposal to install a concrete sump and sump pump at the outfall of the Pilot Plant drainage line along with piping directed to the Advanced Wastewater Treatment (AWWT) facility, at the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. This activity will involve a wetland area in Hamilton County, Ohio. In accordance with 10 CFR 1022, DOE will prepare a Wetland Assessment and conduct the proposed action in such a manner to avoid or minimize potential harm to or within the affected wetland area.

DATES: Written comments must be received by the DOE at the following address on or before May 2, 1995.

ADDRESSES: For further information on this proposed action, contact: Mr. Wally Quaider, Acting Associate Director, Office of Safety and Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705. Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE wetland and floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The proposed activity would reduce or eliminate risks to human health and the environment through the collection and treatment of radiologically and

chemically contaminated seepage. Included is the installation of a sump within the drainage ditch to contain seepage from a plugged abandoned outfall line, and a pump and associated piping to direct the effluent to the AWWT. Slightly under 0.5 acres of wetlands would be affected. Wetland impacts would occur from installation of the sump and equipment movement, resulting in physical disturbance and filling of wetland areas. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a wetlands assessment for this proposed DOE action.

Issued in Miamisburg, Ohio on April 3, 1995.

J. Phil Hamric,

Manager, Ohio Field Office.

[FR Doc. 95–9429 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain and Wetland Involvement for Operable Unit 5 Remedial Action at the Fernald Environmental Management Project (FEMP)

AGENCY: Department of Energy (DOE), Fernald Area Office.

ACTION: Notice of floodplain and wetland involvement.

SUMMARY: This is to give notice of DOE's planned actions at the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. The subject of this Notice of Involvement is Operable Unit 5 which consists of soil and sediment, surface water, groundwater, flora and fauna. The proposed Remedial Action for Operable Unit 5 will reduce risks to human health and the environment through the excavation of soil and sediment, pumping and treating contaminated groundwater, consolidating excavated material in an on-property engineered disposal cell, and backfilling excavated areas. These activities will likely impact floodplain and wetland areas in Hamilton County, Ohio. In accordance with 10 CFR 1022, ''Compliance with Floodplain/Wetland Environmental Review Requirements,'' DOE will prepare a Floodplain/Wetland Assessment for the proposed Remedial Action and the appropriate Statement of Findings. The proposed activities will be performed in such a manner to avoid or minimize potential harm to or within floodplain and wetland areas.

DATES: Written comments must be received by the DOE at the following address on or before May 2, 1995.

ADDRESSES: For further information on this proposed action, including a site map, contact: Mr. Wally Quaider, Acting Associate Director, Office of Safety & Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705. Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE wetland and floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: Remedial activities associated with Operable Unit 5 would include excavation activities directly impacting the 100- and 500-year floodplain of Paddys Run. However, these areas would be backfilled and regraded to approximately original contours, thereby eliminating permanent impacts. Construction of a disposal cell stormwater control channel would result in some increase in flows to Paddys Run during rain events, however, these increased flow events would not result in significant direct or indirect impacts to the floodplain.

Impacts to wetlands as a result of the proposed Remedial Action would be limited to less than 6 hectares (15 acres) of emergent and drainage ditch wetlands. Direct impacts would result from excavation and equipment operation, and indirect impacts would result from such things as soil runoff. Forested wetlands in the northern portion of the site are not expected to be impacted.

Proposed actions affecting these areas are subject to substantive requirements of laws, regulations, and orders pertaining to wetlands and floodplains protection. Additionally, Executive Order (E.O.) 11988—Floodplain Management—and E.O. 11990—Protection of Wetlands—implemented by 10 CFR 1022, require federal agencies to consider the effects of proposed actions on floodplains and wetlands. These regulations require federal agencies to avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and the destruction and modification of wetlands, and to avoid direct or indirect support of floodplain and wetlands development where there is a practicable alternative. Where no practicable alternative exists, proposed actions must include all practicable measures to minimize harm. Best management practices will be utilized during the proposed Remedial Action in Operable Unit 5 to minimize impacts to wetland and floodplain areas.

Issued in Miamisburg, Ohio on April 3, 1995.

J. Phil Hamric,

Manager, Ohio Field Office.

[FR Doc. 95–9430 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Don Curchod

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15615 to Don Curchod. The proposed grant will provide funding in the estimated amount of $94,000 by the Department of Energy to further develop the ''Energy Efficient Skylight (SEAlight)'' technology, a patented device for controlling the light and heat entering a building through a window or skylight. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Don Curchod is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The SEAlight provides an inexpensive and effective method for controlling solar heat gain and daylighting in both new and existing windows and roof-top skylights. Through a novel application of reflective materials, the technology permits the entry of sunlight through windows and skylights during winter and reflects insolation in summer, reducing radiative heat gains during the cooling season. It has applications in both commercial and residential buildings.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing

legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, Attn: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9427 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Thomas L. Dinwoodie, PowerLight Company

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15638 to Thomas L. Dinwoodie, PowerLight Company. The proposed grant will provide funding in the estimated amount of $99,400 by the Department of Energy for the purpose of saving energy through additional engineering refinements, prototype demonstration, plus product testing and certification by independent laboratories of the inventor's ''Powerguard.'' This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Thomas L. Dinwoodie, PowerLight is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The basis of the Powerguard, is to integrate the PV modules into the building's structure, particularly the roof. Integrated PV/roof systems are attractive because the PV system's cost is reduced by the dual usage of the PV module as both a roofing material and as PV power modules as an internal component of a roof. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9426 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Sandor Drobilisch, Sandor Engineering

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15496 to Sandor Drobilisch, Sandor Engineering. The proposed grant will provide funding in the estimated amount of $69,200 by the Department of Energy for the purpose to further develop and market a spiral track oven, which will reduce the energy and time required during the curing stages of microchip manufacturing. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Sandor Drobilisch, Sandor Engineering is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology would eliminate the last of the remaining hand-operation steps in manufacturing microchips and, thereby, fully automate microchip production.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9424 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Marvin A. Kaylor

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15628 to Marvin A. Kaylor. The proposed grant will provide funding in the estimated amount of $99,926 by the Department of Energy for the purpose of saving energy through development of the inventor's ''High Speed, Precision, Diamond Particulate Edged Bandsaw.'' This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Marvin A. Kaylor is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology cuts semiconductor wafers thinner and flatter with a high-speed, long-lasting bandsaw blade. The exceptional thinness of the blade and rigid air bearing guidance system produce wafers of exceptional flatness with reduced kerf loss. The copper plating of the diamond-edged bandsaw

blade strenghens the blade, allowing it to run at much faster speeds than current technology allows.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9423 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Tiby M. Martin

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15620 to Tiby M. Martin. The proposed grant will provide funding in the estimated amount of $99,000 by the Department of Energy for the purpose of saving energy through development of the inventor's ''High Pressure Common Rail System'' that will enable development of future higher efficiency, low emissions diesel engines. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Tiby M. Martin is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. This new high pressure technology will provide better fuel atomization and shorter duration therefore achieving a more complete fuel burn resulting in improved fuel economy and cleaner emissions. The effort will be toward the development of a prototype system consisting of the common rail with injectors and electronic control module which will then be tested across pump speeds, injection pressures and fuel outputs. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 36 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9422 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Materials Research, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15388 to Materials Research, Inc. The proposed grant will provide funding in the estimated amount of $89,500 by the Department of Energy for the purpose of saving energy through development of the inventor's patented energy efficient process for producing powders of metal elements and alloys from aqueous solution. This process has the potential to be a more energy efficient method for producing metal parts and creating new alloys of metals previously regarded as incompatible. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Materials Research, Inc. is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology enables the production of metal powders for the fabrication of metal parts without requiring sintering of materials in the powder production process, and has shown success in the production of homogenous powders of metals previously regarded as incompatible in alloying. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9425 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Douglas G. Thorpe

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15636 to Douglas G. Thorpe. The proposed grant will provide funding in the estimated amount of $99,093 by the Department of Energy for the purpose of saving energy through development of the inventor's ''Flywheel Electric Battery'' energy storage technology for hybrid vehicles and utility load leveling. This award will be made 14 calendar days after

publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Douglas G. Thorpe is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is expected to provide energy savings by storing mechanical energy. The mechanical energy can later be recovered as either mechanical or electrical energy. The energy storage system is targeted for hybrid electric vehicles and uninteruptable power supplies. The flywheel system design, which focuses on cost-effectiveness and component integration, is regarded as employing a superior design when compared to competing systems. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, Attn: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9421 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory (INEL).

DATES AND TIMES: Tuesday, May 2, 1995 from 8:00 a.m. Pacific Standard Time (PST) until 6:00 pm PST and Wednesday, May 3, 1995 from 8:00 a.m. PST until 5:00 p.m. PST. There will be a public comment availability session Tuesday, May 2, 1995 from 5 to 6 p.m. PST.

ADDRESSES: University Inn, 1516 Pullman Road, Moscow, ID 83843, (208) 882–0550.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Board will be finalizing its recommendations on the INEL Future Land Use Plan, studying and identifying areas of common ground on DOE spent nuclear fuel issues, and discussing the Board's FY 1996 budget and action plan.

Tentative Agenda

May 2, 1995

7:30 a.m.—*Sign-in and Registration*
8:00 a.m.—*Miscellaneous Business:*
- Agenda Review/Revision/Acceptance

Old Business
- DDFO Report
- Chair Report

Member Reports
Standing Committee Reports
- Public Communications
- Budget Committee

10:15 a.m.—Break
10:30 a.m.—*Buried Waste Integration Demonstration (BWID) Risk Management Film*
12:00 p.m.—Lunch
1:00 p.m.—*INEL Future Land Use:* finalize assumptions/conclusions, consensus building
2:30 p.m.—Break
3:30 p.m.—*INEL Future Land Use*—finalize recommendation
4:00 p.m.—*Spent Nuclear Fuel:* issues follow-up from March meeting discussion
5:00 p.m.—*Public Comment Availability*
6:00 p.m.—Adjourn

Wednesday, May 3, 1995

7:30 a.m.—*Sign-In and Registration*
8:00 a.m.—*Miscellaneous Business*
- Day Two Agenda review, revision, acceptance
- Old Business from Day 1

8:30 a.m.—*Spent Nuclear Fuel:* discussion, areas of agreement, disagreement
10:30 a.m.—Break
10:45 a.m.—*Spent Nuclear Fuel:* possible conclusions/broad-based recommendations
12:00 noon—Lunch
1:00 p.m.—*Board Work:* future planning/priorities, '96 budget, June meeting
3:00 p.m.—Break
3:30 p.m.—Public Forum
5:00 p.m.—Adjourn

A final agenda will be available at the meeting.

Public Comment Availability

The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, May 2, 1995 from 5 p.m. to 6 p.m. PST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9431 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES AND TIMES: Wednesday, May 3, 1995: 5:30 p.m.–9:30 p.m.

ADDRESSES: Community College of Southern Nevada, Cheyenne Campus, Highdesert Conference and Training Center, Room 1422, Las Vegas, NV.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. DOE, Nevada Operations Office, AMEM, P.O. Box 98518, Las Vegas, NV 89193–8518, ph. 702–295–0197; fax 702–295–1810.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The EM SSAB provides input and recommendations to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

Wednesday, May 3, 1995

7:00 p.m.
- Call to Order
- Review Agenda
- Minutes Acceptance
- Financial Report
- Correspondence
- Reports from Committees, Delegates and Representatives
- Unfinished Business
- New Business
- Evaluation of Board and Environmental Restoration and Waste Management Programs
- Announcements

10:00 p.m.—Adjournment

If needed, time will be allotted after public comments for old business, new business, items added to the agenda, and administrative details.

A final agenda will be available at the meeting Wednesday, May 3, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Don Beck's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9433 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex Plant.

DATES AND TIMES: Tuesday, April 25, 1995: 1:30 pm–5:30 pm.

ADDRESSES: Amarillo Association of Realtors, 5601 Enterprise Circle, Amarillo, TX.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120, (806) 477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Pantex Plant Citizens' Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:30 pm—Welcome—Agenda Review—Introductions

1:35 pm—DOE Site Development Plan (description; components; uses; timing; and relationship to DOE budget)

2:45 pm—Break

3:00 pm—Working Group Reports
- Policy and Personnel
- Budget and Finance
- Community Outreach
- Nominations and Membership

4:05 pm—Updates
- Report on use of EM SSAB, Pantex advice on Agreement in Principle
- Occurrence Report from DOE
- Follow-up on 3/1 detection of high explosives in off-site well

5:00 pm—Co-Chairs' Reports
- Formation of additional task forces

5:15 pm—Next Meetings:
- Tuesday, May 23, 1:30–5:30
- Tuesday, June 27, 1:30–5:30

5:30 pm—Adjourn

Public comment will be taken periodically throughout the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying

at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806)371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806)537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9432 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Accelerated Directives Reduction

AGENCY: Department of Energy.

ACTION: Notice of availability of draft DOE directives.

SUMMARY: The United States Department of Energy (DOE), which is revising, clarifying, and reducing existing internal orders, including a number which are considered burdensome, is making available to the public copies of its revised draft orders as they are released for comment to points-of-contact, including DOE's Field Offices and contractors.

ADDRESSES: The draft orders will be available in the Public Reading Room at DOE headquarters, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. In addition, copies of the draft orders will be made available through the World Wide Web, the Uniform Resource Locator (URL), which is accessed as follows:

HTTP://WWW.HR.DOE.GOV

(* Directives are located under ''The Reference Shelf'')

Drafts may also be accessed via Gopher at the following address:

GOPHER.HR.DOE.GOV

(* Directives are listed under the ''Department of Energy Information'' folder).

FOR FURTHER INFORMATION CONTACT: JoAnne Whitman, HR–62, by telephone at (202) 586–3282 or by mail at the following address: JoAnne Whitman, HR–62, United States Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: In response to the Report of the Task Force on Alternative Futures for DOE's National Laboratories (Galvin Report), and DOE's ongoing Strategic Realignment Initiative, DOE has accelerated efforts already underway to revise internal Departmental directives in order to reduce their burden and improve the efficiency of DOE contractor operations. DOE plans to reduce approximately 90 internal directives, including the 26 considered most burdensome by DOE national laboratories and contractors, to approximately 24 greatly simplified orders covering DOE programs in Environment, Safety and Health; Field Management; Nonproliferation and National Security; and Environmental Management.

The revised draft directives are being circulated for comment to both Federal and contractor representatives at DOE Headquarters and in the Field. DOE expects that measurable improvements to its directives system will be in place by August 1995. This accelerated process will dramatically improve the cost-effectiveness of affected programs, while meeting environmental safety, health, and fiscal accountability requirements.

DOE will provide public access to the draft orders as provided in this notice. Questions or comments may be addressed to the DOE employee identified in this notice.

Issued in Washington, DC on April 11, 1995.

Marcia L. Morris,

Director, Office of Organization and Management.

[FR Doc. 95–9428 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–1475–000, et al.]

Illinova Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 11, 1995.

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

1. Illinova Power Marketing, Inc.

[Docket No. ER94–1475–000]

Take notice that on April 5, 1995, Illinova Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Company

[Docket No. ER95–580–000]

Take notice that on April 10, 1995, Kentucky Utilities Company (KU) filed a modified Transmission Agreement between KU and East Kentucky Power Cooperative, Inc. (EKPC).

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket Nos. ER95–738–000 and ER95–739–000]

Take notice that on April 4, 1995, New York State Electric & Gas Corporation tendered for filing an amendment in the above-referenced dockets.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER95–796–000]

Take notice that on March 24, 1995, PECO Energy Company (PECO) tendered for filing an Agreement between PECO and Stand Energy Corporation (SEC) dated March 1, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to SEC. In order to optimize the economic advantage to both PECO and SEC, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on March 27, 1995.

PECO states that a copy of this filing has been sent to SEC and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER95–831–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Azusa (Azusa) and Edison, and the associated supplemental agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 247:

1995 Power Sale Agreement between the City of Azusa and The Southern California Edison Company (1995 PSA)

Supplemental Agreement for the Integration of the 1995 Power Sale Agreement between Southern California Edison and the City of Azusa (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Azusa shall purchase Contract Capacity and Associated Energy During the Delivery Season of June 1 through October 31 (5 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER95–832–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Banning (Banning) and Edison, and the associated supplemental agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 248:

1995 Power Sale Agreement between the City of Banning and The Southern California Edison Company (1995 PSA)

Supplemental Agreement for the Integration of the 1995 Power Sale Agreement between Southern California Edison and the City of Banning (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Banning shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through September 30 (4 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER95–833–000]

Take notice that on March 31, 1995, Southern California Edison Company (Edison), tendered for filing a Supplement to the Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) for the integration of San Onofre Nuclear Generating Station (SONGS) and the associated Firm Transmission Service (FTS) Agreement with the City of Anaheim (Anaheim), Commission Rate Schedule FERC No. 246.12 and No. 246.13.

The Supplement amends the Effective Operating Capacity for SONGS Unit 2 during Fuel Cycle 8 for the purposes of determining Anaheim's Rated Capability and Contract Capacity under the Supplemental Agreement and the FTS Agreement respectively and corresponding Capacity Credit under the 1990 IOA. Edison is seeking waiver of the Commission's requirement for 60-day prior notice and requesting an effective date concurrent with the beginning of Fuel Cycle 8.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Boston Edison Company

[Docket No. ER95–834–000]

Take notice that on March 31, 1995, Boston Edison Company (BECo), tendered for filing a Service Agreement and Appendix A for LG&E Power Marketing, Inc. for the sale and/or exchange of power from time to time pursuant to BECo's Electric Tariff, Original Volume NO. 6. BECo requests that this Service Agreement and Appendix A become effective on April 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. UtiliCorp United Inc.

[Docket No. ER95–844–000]

Take notice that on March 31, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with City of Columbia, Missouri. The service agreement provides for the sale of capacity and energy by Missouri Public Service to City of Columbia, Missouri, pursuant to the tariff and for the sale of capacity and energy by City of Columbia, Missouri, to Missouri Public Service.

UtiliCorp requests waiver of the Commission's regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ER95–845–000]

Take notice that on March 31, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with Electric Clearinghouse, Inc. The service agreement provides for the sale of capacity and energy by Missouri Public Service to Electric Clearinghouse, Inc. pursuant to the tariff and for the sale of capacity and energy by Electric Clearinghouse, Inc. to Missouri Public Service pursuant to Electric Clearinghouse, Inc. Rate Schedule No. 1.

UtiliCorp also has tendered for filing a certificate of concurrence by Electric Clearinghouse, Inc.

UtiliCorp requests waiver of the Commission's regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Western Resources, Inc.

[Docket No. ER95–847–000]

Take notice that on March 31, 1995, Western Resources, Inc. (WRI), tendered for filing a proposed change to its Federal Energy Regulatory Commission Electric Rate Schedule No. 242. WRI states the purpose of the change is to provide generation deferral service to the City of Ellinwood. The change is proposed to become effective June 1, 1995.

Copies of the filing were served upon the City of Ellinwood and the Kansas Corporation Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Public Service Company

[Docket No. ER95–851–000]

Take notice that on March 31, 1995, Maine Public Service Company (MPS), tendered for filing a modification to its FERC Electric Tariff, Original Volume No. 1, Power Sales Tariff. Specifically, MPS proposes to modify its rate schedule to allow for market pricing of sales from specific generating units as well as from system supply and to make various other minor changes. MPS proposes an effective date of June 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Company

[Docket No. ER95–852–000]

Take notice that on March 31, 1995, Tampa Electric Company (Tampa Electric), tendered for filing three agreements with the Reedy Creek Improvement District (RCID): (1) a new Contract for Interchange Service; (2) a Letter Agreement that amends an existing Letter of Commitment under interchange Service Schedule D; and (3) a Contract for the Sale and Purchase of Capacity and Energy. Tampa Electric requests that its existing interchange service schedules and letters of commitment be redesignated as supplements to the new Contract for Interchange Service.

Tampa Electric proposes an effective date of June 1, 1995, for the tendered agreements and requested redesignations.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Central Power and Light Company

[Docket No. ER95–853–000]

Take notice that on March 31, 1995, Central Power and Light Company (CPL), tendered for filing a Coordination Sales Tariff. Under the Coordination Sales Tariff, CPL will make Economy Energy, Short-Term Power and Energy, General Purpose Energy and Emergency Energy Service available to customers upon mutual agreement. CPL simultaneously submitted for filing seven unexecuted Service Agreements establishing Houston Lighting & Power Company (HL&P), Lower Colorado River Authority (LCRA), Medina Electric Cooperative, Inc. (Medina), South Texas Electric Cooperative, Inc. (STEC), Southwestern Electric Service Company (SESCO), Texas Municipal Power Pool (TMPP), and Texas Utilities Electric Company (TU Electric) as customers under the terms of the CST–1 Tariff.

CPL has asked for expedited consideration and waiver of the Commission's notice requirements to the extent necessary to permit an effective date of April 1, 1995. Copies of this filing were served on HL&P, LCRA, Medina, STEC, SESCO, TMPP and TU Electric and the Public Utilities Commission of Texas and are available for public inspection at CPL's offices in Corpus Christi, Texas.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Kentucky Utilities Company

[Docket No. ER95–854–000]

Take notice that on March 31, 1995, Kentucky Utilities Company (KU), filed a transmission services tariff and a power sales services tariff and several revisions to its interconnection agreements. KU states that the purpose of the filings is to authorize transmission services over the KU transmission system and to effect market-based rates for its off-system power and energy sales.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER95–855–000]

Take notice that on April 3, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Citizens Lehman Power Sales (Citizens) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Citizens.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Black Hills Corporation

[Docket No. ER95–856–000]

Take notice that on March 31, 1995, Black Hills Corporation, which operates its electric utility business under the assumed name of Black Hills Power and Light Company (Black Hills), tendered for filing an executed form service agreement with Enron Power Marketing, Inc.

Copies of the filing were provided to the regulatory commission of each of the states of Montana, South Dakota, and Wyoming.

Black Hills has requested that further notice requirement be waived and the tariff and executed service agreements be allowed to become effective April 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Southern California Edison Company

[Docket No. ER95–857–000]

Take notice that on April 3, 1995, Southern California Edison Company tendered for filing a supplemental agreement, associated procedure and letter agreement to the 1990 Integrated Operations Agreement with the City of Banning (Banning), Commission Rate Schedule No. 248.

The supplemental agreement, procedure and letter agreement establish the terms and conditions for the integration of Replacement Capacity Resources purchased by Banning under the Conformed Western Systems Power Pool Agreement. Edison is requesting waiver of the Commission's 60-day notice requirements and is requesting an effective date of March 27, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Interstate Power Company

[Docket No. ES95–28–000]

Take notice that on April 6, 1995, Interstate Power Company filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $70 million of short-term debt on or before December 31, 1996, with a final maturity date not later than December 31, 1997.

Comment date: May 5, 1995, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9366 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG95–38–000, et al.]

TSP Guatemala One, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 10, 1995.

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

1. TPS Guatemala One, Inc.

[Docket No. EG95–38–000]

Take notice that on March 30, 1995, TPS Guatemala One, Inc. (TPS Guatemala) filed an application with the Commission for a determination that it is an exempt wholesale generator (EWG). In support of its application, TPS Guatemala asserts that it will own indirectly a majority interest in a 78 megawatt generating facility to be constructed at a site near Escuintla, Guatemala, located approximately 35 miles southwest of Guatemala City, Guatemala. In its application, TPS Guatemala states that its communications and correspondence regarding this Application should be served on its representative: Sheila M. McDevitt, Esq., Vice President, Assistant General Counsel, TECO Energy, Inc., 702 North Franklin Street, Tampa, Florida 33602, (813) 228–1804.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Tampa Centro Americana de Electricidad, Limitada

[Docket No. EG95–39–000]

Take notice that on March 30, 1995, Tampa Centro Americana de Electricidad, Limitada (TCAE) submitted an application to the Commission for a determination that it is an exempt wholesale generator (EWG). In support of its application, TCAE asserts that it will own and operate a 78 megawatt generating facility at a site near Escuintla, Guatemala, located approximately 35 miles southwest of Guatemala City, Guatemala. TCAE further states that all communications and correspondence regarding this Application should be served on its representative, Sheila M. McDevitt, Esq. Vice President, Assistant General Counsel, TECO Energy, Inc., 702 North Franklin Street, Tampa, Florida 33602, (813) 228–1804.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. New Hampshire Electric Cooperative v. Public Service Company of New Hampshire

[Docket No. EL95–37–000]

Take notice that on March 27, 1995, New Hampshire Electric Cooperative (NHEC) tendered for filing a complaint against Public Service Company of New Hampshire's (PSNH's) Fuel and Purchased Power Adjustment Clause submitted by PSNH to the Commission on December 27, 1994. PSNH filed this FPPAC, as it is annually required to do under the Amended Partial Requirements Agreement between NHEC and PSNH in Docket No. ER95–353–000.

Comment date: May 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corp.

[Docket No. EL95–38–000]

Take notice that on March 29, 1995, Sithe/Independence Power Partners L.P. (Sithe) tendered for filing a complaint against Niagara Mohawk Power Corporation (Niagara) regarding Niagara's calculation of transmission loss factors for Sithe. In its complaint Sithe requests that the Commission: (a) Order Niagara to recalculate the transmission losses associated with the November 5, 1991, Transmission Services Agreement between Sithe and Niagara; (b) order Niagara to share with Sithe and file with the Commission details about Niagara's methodology for determining transmission losses on its system; and (c) investigate the methodology Niagara uses to determine transmission losses on its system and modify such methodology as necessary to ensure that it is just, reasonable, not unduly discriminatory and in the public interest.

Comment date: May 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Co.

[Docket No. ER95–778–000]

Take notice that on March 21, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing revisions to the following agreements between PG&E and the City of Santa Clara, California (City or Santa Clara): (1) The Interconnection Agreement between Pacific Gas and Electric Company and the City of Santa Clara (LA), initially filed in FERC docket No. ER84–6–000 and designated as PG&E Rate Schedule FERC No. 85; (2) the Grizzly Development and Mokelume Settlement Agreement (Grizzly Agreement), initially filed in FERC Project No. 137–002 and designated as PG&E Rate Schedule FERC No. 137; (3) the System Bulk Power Sale and Purchase Agreement (Bulk Power Agreement), initially filed in FERC Docket No. ER87–498–000 and designated as PG&E Rate Schedule FERC No. 108.

PG&E's filing as to the IA proposes revisions to: (1) Section II.6 of Appendix A, relating to transmission rates and transmission functions; (2) Section II.8 of Appendix A, regarding Capacity Reserve; and (3) Exhibit A–4 to Appendix A, regarding Firm Transmission Service between Points of Receipt and Points of Delivery.

PG&E's filing as to Grizzly Amendment No. Two proposes revisions to the power purchases for resources.

PG&E's filing as to the Bulk Power Agreement proposes revisions to the term of the agreement and terms, conditions and rates for power sales.

Copies of this filing were served upon Santa Clara and the California Public Utilities Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Resources West Energy Corp.

[Docket No. ER95–808–000]

Take notice that on March 28, 1995, Resources West Energy Corporation (Resources West), tendered for filing three transmission tariffs; a network integration service tariff; a firm point-to-point transmission service tariff; and a nonfirm point-to-point transmission service tariff. Resources West proposes that these three tariffs become effective upon the merger of Sierra Pacific Resources (parent company of Sierra Pacific Power Company) and The Washington Water Power Company.

Copies of this filing have been served on the Public Service Commission of Nevada, the Washington Utilities and Transportation Commission, the California Public Utilities Commission, Montana Public Service Commission, Public Utility Commission of Oregon and the Idaho Public Utilities Commission, as well as current wholesale requirements customers of Sierra Pacific Power Company and The Washington Water Power Company and Parties of Record in Docket No. EC94–23–000.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Co.

[Docket No. ER95–815–000]

Take notice that on March 28, 1995, Northeast Utilities Service Company

(NUSCO), tendered for filing a Service Agreement and a Certificate of Concurrence with Vermont Electric Generation and Transmission Cooperative (VEG&T) under the NU System Companies System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to VEG&T.

NUSCO requests that the Service Agreement become effective on March 17, 1995.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Co.

[Docket No. ER95–816–000]

Take notice that on March 28, 1995, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated March 29, 1995 between Rainbow Energy Marketing Corporation (REMC) and UE. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for transmission service transactions from UE to REMC.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. PECO Energy Co.

[Docket No. ER95–820–000]

Take notice that on March 30, 1995, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and Atlantic City Electric Company (ACE) dated March 17, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to ACE. In order to optimize the economic advantage to both PECO and ACE, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on March 31, 1995.

PECO states that a copy of this filing has been sent to ACE and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Co.

[Docket No. ER95–821–000]

Take notice that on March 30, 1995, Idaho Power Company (IPC), tendered for filing a rate schedule amendment for the Power Sale Agreement between IPC and the cities of Azusa, Banning and Colton, California.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Co.

[Docket No. ER95–822–000]

Take notice that on March 30, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Public Service Company of New Hampshire (together, the NU System Companies), a filing for a System Power Sales Agreement with Commonwealth Electric Company (CES). NUSCO requests that the rate schedule become effective on June 1, 1995.

NUSCO states that copies of the filing have been mailed or delivered to the NU System Companies, CES and the Massachusetts Department of Public Utilities.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Co.

[Docket No. ER95–823–000]

Take notice that on March 30, 1995, Central Maine Power Company (CMP), tendered for filing executed service agreements entered into with the following entities: Catex Vitol Electric Inc., Citizens Lehman Power Sales, Commonwealth Electric Company, Consolidated Edison Co. of New York, Inc., Louis Dreyfus Electric Power Inc., ENRON Power Marketing, Inc., Long Island Lighting Co., New England Power Company, New York Power Authority, Town of Hudson, Massachusetts and Vermont Marble Power Division of Omya, Inc. Service will be provided pursuant to CMP's previously accepted Power Sales Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 2, as supplemented. An effective date for commencement of service of April 1, 1995 is requested for each of the service agreements.

CMP has served a copy of the filing on the affected customers and on the Maine Public Utilities Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Power & Light Co.

[Docket No. ER95–824–000]

Take notice that on March 30, 1995, Puget Sound Power & Light Company tendered for filing an Agreement Providing for Termination of Agreement for Assignment and for Exchange of Power between Puget and Public Utilities District No. 1 of Grays Harbor County, Washington (the District) executed as of March 2, 1995 (the Exchange Agreement). A copy of the filing was served upon the District.

Puget states that the Exchange Agreement relates to the exchange and scheduling by Puget and the District of the District's Centralia Project output share, the sale by Puget to the District of reserve capacity, and the provision by Puget of certain associated services, all pursuant to the terms of the Exchange Agreement.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Western Resources, Inc.

[Docket No. ER95–825–000]

Take notice that on March 30, 1995, Western Resources, Inc. (WRI), tendered for filing a change in its Service Agreement No. 4 under FERC Electric Tariff, Original Volume No. 1. WRI states that the change is to amend Exhibit A to the Transmission Service Agreement between WRI and the City of Neodesha. This change is requested to become effective June 1, 1995.

Copies of this filing were served upon the City of Neodesha and the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Kansas Gas and Electric Co.

[Docket No. ER95–826–000]

Take notice that on March 30, 1995, Western Resources, Inc. (WRI), on behalf of Kansas Gas and Electric Company (KG&E), tendered for filing a proposed change to KG&E's Rate Schedule FPC No. 93. WRI states that the proposed change is to add one year to the term of Service Schedule SP–1 between KG&E and WRI, and to increase the capacity nomination thereunder.

A copy of the filing has been served upon the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Kansas Gas and Electric Co.

[Docket No. ER95–827–000]

Take notice that on March 30, 1995, Kansas Gas and Electric Company (KG&E), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KG&E states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule W to FPC Rate

Schedule No. 93 for the period June 1, 1995 through May 31, 1996.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Boston Edison Co.

[Docket No. ER95–828–000]

Take notice that on March 30, 1995, Boston Edison Company (Edison) and New England Power Company (NEP), tendered for filing a Fourth Extension Agreement to Rate Schedule No. 46. The purpose of the agreement is to extend the notice of termination of service under Rate Schedule No. 46 to September 30, 1995 from May 31, 1995 the return on equity provision of the Facilities Support Agreement.

The filing companies state that they have served the filing on the Massachusetts Department of Public Utilities.

The parties request that the amendment become effective on June 1, 1995.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Southern California Edison Co.

[Docket No. ER95–830–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Colton (Colton) and Edison, and the associated supplement agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 249:

1995 Power Sale Agreement Between The City of Colton and The Southern California Edison Company (1995 PSA)

Supplemental Agreement for the Integration of the 1995 Power Sale Agreement Between Southern California Edison and The City of Colton (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Colton shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through September 30 (4 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. New England Power Co.

[Docket No. ER95–837–000]

Take notice that on March 31, 1995, New England Power Company tendered for filing a transmission contract for service to Citizens Lehman Power Sales.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Co.

[Docket No. ER95–839–000]

Take notice that on March 31, 1995, Carolina Power & Light Company (Carolina) tendered for filing a Notice of Termination of Rate Schedule FERC No. 49 between Carolina and the Town of Bennettsville. Carolina has requested a termination date of June 1, 1995.

Notice of the termination has been served upon the Town of Bennettsville.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. CNG Power Services Co.

[Docket No. ER95–840–000]

Take notice that on March 31, 1995, CNG Power Services Corporation (CNGPS) tendered for filing a Service Agreement between CNGPS and R.J. Dahnke & Associates (Dahnke), dated March 1, 1995, and a request for waiver of the Commission's notice requirements. This Service Agreement indicates that CNGPS has been authorized by the Commission to market wholesale electric power. CNGPS obtained authority for such transactions pursuant to its FERC Electric Rate Schedule No. 1 (Rate Schedule), which was accepted by the Commission by letter order dated October 25, 1994 at Docket No. ER94–1554–000. The Service Agreement allows CNGPS and Dahnke to enter into individual transactions for the sale by CNGPS to Dahnke of energy and/or capacity at mutually agreed rates.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Northern Indiana Public Service Co.

[Docket No. ER95–843–000]

Take notice that on March 31, 1995, Northern Indiana Public Service Company tendered for filing on behalf of Wabash Valley Power Association, Inc. and itself the Eleventh Supplemental Agreement to the Interconnection Agreement, Dated April 16, 1984, by and Between Northern Indiana Public Service Company and Wabash Valley Power Association, Inc. Dated March 14, 1995 (Supplemental).

The Supplemental adds the phrase ''Up to'' the demand compensation section of Service Schedule M—Unit Peaking Capacity and Energy NIPSCO to Wabash Valley of the Interconnection Agreement between the Parties.

Copies of this filing have been sent to Wasbash Valley Power Association, Inc. and the Indiana Utility Regulatory Commission.

Comment date: April 24, 1995, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9367 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2315–002; Project No. 2331–002; Project No. 2332–003; North Carolina and South Carolina]

South Carolina Electric & Gas Company, et al.; Availability of Draft Environmental Assessment

April 11, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for new licenses for the following three existing hydroelectric Projects, all of which are located on the Broad River: (1) The Neal Shoals Project (No. 2315–002), located in Chester and Union County, South Carolina, near Carlisle, SC; (2) the Ninety-Nine Islands Project (No. 2331–002), located in Cherokee County, South Carolina near Gaffney, SC; and (3) the Gaston Shoals Project (No. 2332–003), located in Cherokee County, South Carolina and Cleveland County, North Carolina, near

Gaffney, SC. The Commission has prepared a Draft Multiple Project Environmental Assessment (Draft EA) covering all three projects. In the Draft EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the projects and has concluded that licensing the projects, with appropriate environmental protective or enhancement measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the Draft EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. For further information, contact Tim Looney, Environmental Coordinator, at (202) 219–2852.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9321 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–303–000]

CNG Transmission Corp.; Application

April 11, 1995.

Take notice that on April 5, 1995, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP95–303–000 an application pursuant to Section 7(b) of the Natural Gas Act, for permission and approval to abandon, in place, approximately 20.40 miles of 12-inch pipeline, known as H–197, located in Wetzel and Marshall Counties, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

CNG states that line H–197 was constructed in 1946 to serve various industrial plants along the Ohio River basin. It is stated that many of those plants have closed over the years eliminating the market need for that section of H–197. CNG further states that during the ensuing decades, corrosion has created a substantial number of leaks in that pipeline segment.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 2, 1995, 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 CNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9322 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–230–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 11, 1995.

Take notice that on April 6, 1995, Florida Gas Transmission Company (FGT), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

First Revised Sheet No. 125A

On February 10, 1995, in Docket No. RP95–159–000 FGT filed tariff provisions for the disposition of Unauthorized Gas delivered to FGT's system. Subsequently, on March 14, 1995, the Commission issued an order (Order) on the proposed tariff provisions, which, among other things, required FGT to delete language applying the proposed Unauthorized Gas provisions retroactively. However, in the Order the Commission stated that, ''FGT may propose in a separate filing a mechanism for addressing the unauthorized volumes currently existing on its system''.

In the instant filing, FGT is proposing tariff provisions for the disposition of Unauthorized Gas delivered to FGT's system prior to March 15, 1995. Specifically, FGT is proposing that, on the first day of the month following the effectiveness of the tariff provisions proposed herein, FGT will post on its Electronic Bulletin Board all Unauthorized Gas received prior to March 15, 1995. Shippers will then be given sixty days from the date of posting to submit a valid claim and thirty days after FGT has validated the claim to schedule such volumes. Any volumes not claimed shall be retained by FGT.

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, N.E., Washington, D.C. 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 April 18, 1995. 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. 95–9323 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–5–001 and RP95–5–002]

Northwest Pipeline Corporation; Technical Conference

April 11, 1995.

Take notice that at 9:30 a.m. on Wednesday, April 26, 1995, the Commission staff will convene a technical conference in the above-captioned proceedings pursuant to an order issued on February 27, 1995.[1] The technical conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C.

[1] 70 FERC ¶ 61,234 (1995).

Lois D. Cashell,

Secretary.

[FR Doc. 95–9324 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–308–000]

Viking Gas Transmission Company; Request Under Blanket Authorization

April 11, 1995.

Take notice that on April 7, 1995, Viking Gas Transmission Company (Viking), 825 Rice Street, St. Paul, Minnesota 55117, filed in Docket No. CP95–308–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new delivery point for firm transportation services that Viking currently provides for Northern States Power Company-Minnesota (NSPM), under the blanket certificate issued in Docket No. CP88–679–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Viking proposes to construct and operate a 2-inch hot tap, measurement, and data acquisition equipment in Chisago County, Minnesota to establish the new Taylors Falls delivery point for NSPM. It is indicated that Viking and NSPM are parties to gas transportation agreements dated June 1, 1994, under which Viking currently provides a maximum daily summertime quantity of 35,215 million Btu and wintertime quantity of 56,000 million Btu of firm transportation service under Viking's Rate Schedule FT–A. It is also indicated that NSPM has requested deliveries of up to 1,012 mcf per day at the proposed delivery point. Viking estimates a facility cost of $138,900 and indicates that NSPM has agreed to reimburse Viking for the cost of facilities.

Viking advises that the total volumes to be delivered to NSPM after the request do not exceed the total volumes authorized prior to the request. Also, Viking indicates that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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. 95–9325 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5192–9]

Contractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following subcontractors for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended. (1) EC/R, Inc., 3721–D University Drive, Durham, NC 27707, contract number 68D10119; (2) Alpha Gamma Technologies, Inc, 900 Ridgefield Drive, Suite 350, Raleigh, NC 27609 contract 68D10117; (3) Energy and Environmental Research Corporation, (EER), 3710 University Drive, Suite 160 Contract 68D10117,

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Doris Maxwell, Document Control Officer, Office of Air Quality Planning and Standards (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5312.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 114 of the CAA that EPA may provide the above mentioned subcontractors access to these materials on a need-to-know basis. These subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in source assessment or with a source category survey and proceed through development of standards for a Federal Air Pollution Control Regulation or Control Techniques Guidelines (CTG).

In accordance with 40 CFR 2.301(h), EPA has determined that each subcontractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contracts. The subcontractors' personnel will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All subcontractor access to CAA CBI will take place at the subcontractors' facility. Each subcontractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 1998 under contract 68D40099 and on September 30, 1997 under contract 68D40107.

Dated: April 7, 1995.

Mary Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–9379 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5193–2]

Performance Evaluation Reports for Fiscal Year 1994 Section 105 Grants; Missouri, Kansas, Iowa, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations on the progress of the approved State/EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available to the public the evaluation reports. EPA has conducted evaluations on the Missouri Department of Natural Resources, Nebraska Department of Environmental Quality, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These evaluations were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

EFFECTIVE DATE: April 17, 1995.

ADDRESSES: Copies of the evaluation reports are available for public inspection at the EPA's Region VII Air, RCRA, and Toxics Division; 726 Minnesota Avenue; Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Carol LeValley at (913) 551–7610.

Dated: March 22, 1995.

Michael J. Richardson,

Acting Regional Administrator.

[FR Doc. 95–9377 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5192–8]

Notice of Open Meetings of the Environmental Financial Advisory Board on June 12–14, 1995

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in Washington, D.C. on June 13–14, 1995. The meeting will be held at The Madison Hotel located at 1177 15th Street, N.W., Washington, D.C. The Board will meet on June 13 from 1 p.m. to 5 p.m. and on June 14 from 8:30 a.m. to 4 p.m.

EFAB is chartered with providing authoritative analysis and advice to the EPA Administrator on environmental finance. This will be a working meeting to review and comment on ongoing EFAB advisories and reports. These advisories and reports address important environmental financing issues including the redevelopment of urban brownfields, state revolving loan funds for water and wastewater, fee systems and ecosystem management.

Prior to the meeting of the entire Board, EFAB's Environmental State Revolving Fund Workgroup will meet at The Madison Hotel on June 12, 1995, from 9:00 a.m. to 4:00 p.m. This Workgroup will discuss the development of an advisory on the benefits of establishing Environmental State Revolving Funds.

Both meetings are open to the public, but seating is limited. For further information, please contact Joanne Lynch, U.S. EPA on (202) 260–1459.

Dated: April 7, 1995.

George Ames,

Acting Director, Resource Management Division.

[FR Doc. 95–9382 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL-5192-6]

Science Advisory Board Dioxin Reassessment Review Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that the Dioxin Reassessment Review Committee of the Science Advisory Board (SAB) will meet on May 15 and 16, 1995 at the Herndon Renaissance Hotel, 13869 Park Center Road, (adjacent to the Dulles International Airport), Herndon VA 22071. The hotel telephone is 703-478-2900.

The meeting, which is open to the public, will start at 9 am on May 15, and 8:30 am on May 16. The meeting will adjourn no later than 7 pm on both days. A preliminary announcement of this meeting and solicitation for those individuals or organizations wishing to register to address the Committee when it met appeared in the **Federal Register** (60 FR 8233) for February 13, 1995. This preliminary notice set a closing date of March 10, 1995 for registration. No additional requests to make oral presentation to the Committee can be accepted, but written materials (provide 50 copies) for distribution to the Committee will be accepted until May 15, 1995 (see below for contacts).

The Committee, which is composed of a Health Panel and an Exposure Panel, will review EPA's reassessment of 2,3,7,8-TCDD, dioxin. Information on the relevant review documents may be found in the **Federal Register** (59 FR 46980) for September 13, 1994, which announced the availability of the documents and provided ordering information. The documents are not available from the Science Advisory Board.

There is a detailed Charge for the review, identifying some 43 discrete issues concerning exposure and human health effects associated with dioxin. In broad terms, the health-related issues address the overall health assessment document, deposition and pharmacokinetics, mechanisms, toxic effects, chloracne, cancer, developmental toxicity, immunotoxicity, dose-response, toxicity equivalent factors, and animal/human responses. The exposure issues address the overall exposure assessment, sources, food/media levels, body burdens, background exposures, and site-specific assessment procedures.

Copies of the complete Charge or the Agenda for the meeting may be requested from Ms. Mary Winston by facsimile to (202) 260-7118 or by phone at (202) 260-6552. If you are requesting a copy of the Charge, please include a complete mailing address; the Charge is too lengthy to transmit by facsimile.

Members of the public desiring additional technical information about the health section of the reassessment document should contact Dr. William Farland, Office of Research and Development (8601), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. Dr. Farland may be called at (202) 260-7315. For technical information about the exposure sections, contact Dr. John Schaum (8603), Office of Research and Development (8603), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. Dr. Schaum may be called at (202) 260-5988.

Members of the public desiring additional information about the conduct of the SAB meeting should contact Mr. Samuel Rondberg, Designated Federal Official, Dioxin Reassessment Review Committee, by telephone at (202) 260-2559, via Internet to RONDBERG. SAMUEL@EPAMAIL.EPA.GOV, by facsimile to (202) 260-7118, or by mail to the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460.

Dated: April 5, 1995.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–9383 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5192–7]

Wyoming; Final Determination of Partial Program Adequacy of the State's Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region VIII).

ACTION: Notice of final determination of partial program adequacy of Wyoming's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the Environmental Protection Agency (EPA) to determine whether States have adequate ''permit''

programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal Criteria will apply to all permitted and unpermitted MSWLFs.

The State of Wyoming applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed Wyoming's MSWLF application and made a tentative determination for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. After reviewing all comments received, EPA today is granting final approval to Wyoming's partial program. All but one element of the Federal Criteria are included in this approval.

EFFECTIVE DATE: The determination of adequacy for Wyoming shall be effective on April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald Allen (8HWM–WM), Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Phone 303/293–1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for States or Tribes to develop ''adequate'' programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an ''adequate'' program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Wyoming

On November 6, 1992, Wyoming submitted an application for partial program adequacy determination for the State's MSWLF permit program. On October 8, 1993, EPA published a final determination of partial adequacy for Wyoming's program. Further background on the final partial program determination of adequacy appears at 58 FR 52491 (October 8, 1993).

EPA approved the following portions of the State's MSWLF permit program:

1. Location restrictions for airports, flood plains, wetlands, fault areas, seismic impact zones, and unstable areas (40 CFR 258.10 through 258.15).
2. Operating criteria for the exclusion of hazardous waste, cover materials, disease vector control, explosive gases, air criteria, access requirements, run-on/run-off control systems, surface water requirements, liquids restrictions, and record keeping requirements (40 CFR 258.20 through 258.29).
3. Design criteria requirements (40 CFR 258.40).
4. Closure and post-closure requirements (40 CFR 258.60 through 258.61).

EPA did not approve the following portions of the State's MSWLF permit program:

1. Wyoming will revise its regulations to incorporate the Federal ground-water monitoring and corrective action requirements in 40 CFR 258.50, 258.51, and 258.53 through 258.58.
2. Wyoming will develop new regulations to incorporate the financial assurance requirements in 40 CFR 258.70 through 258.72 and 258.74. Wyoming will revise its regulations to incorporate the financial assurance requirements in 40 CFR 258.73.

On September 30, 1994, the State of Wyoming submitted a revised application for partial program adequacy determination. EPA reviewed Wyoming's application and tentatively determined that the following portions of the State's Subtitle D program will ensure compliance with the Federal Revised Criteria.

1. Ground-water monitoring and corrective action requirements (40 CFR 258.50, 258.51, and 258.53 through 258.58).
2. Financial assurance requirements (40 CFR 258.70 through 258.74).

The October 9, 1991, Final Rules for the MSWLF Criteria included an exemption for owners and operators of certain small MSWLF units from the design (Subpart D) and ground-water monitoring and corrective action (Subpart E) requirements of the Criteria. See 40 CFR 258.1(f). To qualify for the exemption, the small landfill had to accept less than 20 tons per day, on an average annual basis, exhibit no evidence of ground-water contamination, and serve either:

(i) A community that experiences an annual interruption of at least three

consecutive months of surface transportation that prevents access to a regional waste management facility, or

(ii) A community that has no practicable waste management alternative and the landfill unit is located in an area that annually received less than or equal to 25 inches of precipitation.

In January 1992, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a petition with the U.S. Court of Appeals, District of Columbia Circuit, for review of the Subtitle D criteria. The Sierra Club and NRDC suit alleged, among other things, that EPA acted illegally when it exempted these small landfills from the ground-water monitoring requirement. On May 7, 1993, the United States Court of Appeals for the District of Columbia Circuit issued an opinion pertaining to the Sierra Club and NRDC challenge to the small landfill exemption. *Sierra Club* v. *United States Environmental Protection Agency,* 992 F.2d 337 (DC Cir. 1993).

In effect, the Court noted that while EPA could consider the practicable capabilities of facilities in determining the extent or kind of ground-water monitoring that a landfill owner/operator must conduct, EPA could not justify the complete exemption from ground-water monitoring requirements. Thus, the Court vacated the small landfill exemption as it pertains to ground-water monitoring, directing the Agency to ''* * * revise its rule to require ground-water monitoring at all landfills.''

EPA's final rule of October 1, 1993, as required by the Court, removed the October 9, 1991, small landfill exemption whereby owners and operators of MSWLF units that meet the qualifications outlined in 40 CFR 258.1(f) are no longer exempt from ground-water monitoring requirements in 40 CFR 258.50 through 258.55. The final rule does, however, provide for an extension for all of the MSWLF criteria requirements for a period up to two years for all MSWLF units that meet the small landfill exemption in 2581.(f) for ground-water monitoring and corrective action as follows: October 9, 1995, for new units; and October 9, 1995 through October 9, 1996, for existing units and lateral expansions.

The U.S. Court of Appeals in its decision did not preclude the possibility that the Agency could establish separate ground-water monitoring standards for the small dry/remote landfills that take such factors as size, location, and climate into account.

The Agency will continue to maintain an open dialogue with all interested parties to discuss whether alternative ground-water monitoring requirements should be established and will continue to accept information on alternatives. At this time, the Agency is investigating this issue and cannot be certain that practicable alternatives for detecting ground-water contamination will exist for MSWLF units that would qualify for the exemption under 258.1(f). The October 9, 1993 final rule does not link the effective date of ground-water monitoring for landfills that qualify for the small/arid and remote exemption to promulgation of alternative ground-water monitoring requirements.

Under Wyoming rules, the State's 71 active MSWLFs, by definition, consist of Type I and Type II landfills. Type II landfills, which make up the vast majority of landfills in Wyoming, fit the same definition as those defined as small/arid and remote landfills under 258.1(f). The State's Type I landfills are those that are *not* Type II landfills. Type II landfills currently comply with State ground-water monitoring and corrective action rules.

Since the State's Type II landfills are not required to comply with ground-water monitoring and corrective action criteria as defined in 258.1(f) until October 9, 1996, the State is not seeking approval for this portion of their program at this time. When EPA promulgates final revisions to the MSWLF 258.1(f) criteria and provides enough latitude for states to tailor these requirements for small, arid landfills, then the State of Wyoming will need to update their rules. It is the State of Wyoming's position that when EPA promulgates final rule revisions to the MSWLF criteria in 258.1(f), Wyoming will revise its application for full program approval to bring Type II landfills into compliance with Part 258 criteria for ground-water monitoring and corrective action.

Along with the tentative determination, EPA announced the availability of the application for public comment. EPA also tentatively scheduled a public hearing for March 13, 1995, to be held if a sufficient number of people expressed interest in participating. After no one expressed interest, the Agency cancelled the public hearing.

EPA has reviewed Wyoming's application and has determined that all portions of the State's MSWLF permit program (with the exception of Wyoming's Type II landfills not being required to comply with ground-water monitoring and corrective action as defined in 258.1(f) until October 9, 1996) will ensure compliance with the revised Federal Criteria. In its application, Wyoming demonstrated that the State's permit program adequately meets the location restrictions, operating criteria, design criteria, ground-water monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised Federal Criteria. In addition, the State of Wyoming also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

In its application for adequacy determination, Wyoming has not asserted jurisdiction over Indian Country, as defined in 18 U.S.C. 1511. Accordingly, this approval does not extend to lands within Indian Country in Wyoming, including lands within the exterior boundaries of the Wind River Reservation. Until EPA approves a State or Tribal MSWLF permitting program in Wyoming for any part of Indian Country, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of Indian Country that is not covered by an approved State or Tribal MSWLF permitting program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

C. Public Comment

The EPA received no public comments on the tentative determination of adequacy for Wyoming's MSWLF permit program.

D. Decision

Since we received no public comments, I conclude that Wyoming's application for partial program adequacy determination meets all the statutory and regulatory requirements established by RCRA. Accordingly, Wyoming is granted a determination of adequacy for all portions of its MSWLF permit program with the exception of Wyoming's Type II landfills not being required to comply with ground-water monitoring and correction action as

defined in 258.1(f) until October 9, 1996.

Today's action takes effect on April 19, 1995. EPA believes it has good cause under section 553(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), to put this action into effect less than thirty days after publication in the **Federal Register**. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of sections 2002, 4005, and 4010 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, and 6949(a).

Dated: April 4, 1995.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 95–9380 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5191–8]

42 U.S.C. Section 122(h)

Proposed Administrative Agreement

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed settlement.

SUMMARY: USEPA is proposing to settle a claim under Section 107 of CERCLA for response costs incurred during removal activities at the Union Scrap Iron and Metal (Union Scrap III) site in Minneapolis, MN. Respondents have agreed to reimburse USEPA in the amount of $936,000. USEPA today is proposing to approve this settlement offer because it reimburses USEPA, in part, for costs incurred during USEPA's removal action.

DATES: Comments on this proposed settlement must be received on or before May 17, 1995.

ADDRESSES: Copies of the proposed settlement are available at the following address for review: (It is recommended that you telephone Ms. Cheryl Allen at (312) 353–6196 before visiting the Region V Office).

U.S. Environmental Protection Agency, Region V, Office of Superfund, Removal and Enforcement Response Branch, 77 W. Jackson Blvd., Chicago, Illinois 60604

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible)

Cheryl Allen, Community Relations Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 353–6196.

FOR FURTHER INFORMATION CONTACT:

Cheryl Allen, Office of Public Affairs, at (312) 353–6196.

SUPPLEMENTARY INFORMATION: The Union Scrap III site, a scrap yard contaminated with lead and polychloronated biphenyls (PCBs), is not on the National Priorities List. In response to a request from the State of Minnesota, USEPA investigated the Union Scrap III site and undertook response actions designed to minimize the immediate threat, test the materials involved and properly dispose of the hazardous waste.

Respondents are a variety of individuals and corporate entities that generated hazardous substances at the Site in the form of lead batteries, lead contaminated scrap and polychloronated biphenyls (PCBs) from metal and oil-based sources. A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed settlement.

Comments should be sent to Ms. Cheryl Allen of the Office of Public Affairs (P–19J), U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Thomas P. Turner,

Assistant Regional Counsel, Environmental Protection Agency.

[FR Doc. 95–9540 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–M

[OPPT–59343; FRL–4947–7]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TMEs–95–1 and 95–2. The test marketing conditions are described below.

EFFECTIVE DATES: April 5, 1995. Written comments will be received until May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Shirley D. Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–447H, 401 M St. SW., Washington, DC 20460, (202) 260–3780.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TMEs–95–1 and 95–2. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in these applications and in this notice must be met.

Inadvertently the notice of receipt of these applications was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential

document is available in the TSCA nonconfidential information center (NCIC), Rm. ETG–102 at the above address between 12:00 noon and 4:00 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TMEs–95–1 and 95–2. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the TMEs. In addition, the applicants shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–95–1

Date of Receipt: March 22, 1995. The extended comment period will close May 2, 1995.

Applicant: Confidential.

Chemical: (G) *N,N′,N″*-Triphenylmelamine derivative.

Use: (G) UV Absorber.

Production Volume: Confidential.

Number of Customers: Fifteen.

Test Marketing Period: Three years, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant human health concerns for the test market substance. The TME substance is not expected to be toxic to aquatic organisms at maximum saturation in water. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

TME–95–2

Date of Receipt: March 23, 1995. The extended comment period will close (insert date 15 days after date of publication in the **Federal Register**).

Applicant: Lubricant Additive Research Co.

Chemical: (G) Synthetic Silver Complex.

Use: (G) Lubricant Additive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: One year, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant human health concerns for the test market substance. Based on Structure Activity Relationship (SAR) analysis from data on similar substances, EPA estimates that the TME substance could be toxic to aquatic organisms at a concentration of 1.0 parts per billion. However, the TME substance is not expected to be released to surface waters during the manufacturing, processing and use scenarios described in the TME application. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: April 5, 1995.

Paul J. Campanella,

Chief, New Chemicals Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 95–9385 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[IAD File No. 94–102, FCC 95–19]

Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech—Illinois

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling and order.

SUMMARY: This Declaratory Ruling and Order (Order) responds to a Request for Declaratory Ruling and Order (Petition) filed with the Federal Communications Commission (Commission) on August 4, 1994, jointly by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc. (Petitioners). Petitioners objected to a plan developed by Ameritech-Illinois (Ameritech) to relieve an anticipated telephone number shortage in the part of Illinois covered by numbering plan area 708. Petitioners contended portions of the Ameritech plan violate the Communications Act and industry guidelines. In the Order, the Commission found the Ameritech plan was unreasonably discriminatory and otherwise unjust and unreasonable in violation of the Communications Act.

In the Order, the Commission declared the importance of modernization of telecommunications infrastructure, the introduction of new technologies, the promotion of competition, and the encouragement of new interstate and international services to meeting its goals under the Communications Act.

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Laurence Povich, Common Carrier Bureau, Industry Analysis Division, (202) 418–0953.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Declaratory Ruling and Order in Common Carrier Bureau, IAD File No. 94–102, adopted January 12, 1995, and released January 23, 1995, with Commissioner Barrett issuing a statement.

The complete text of the Order and the statement is available for inspection and copying between 9:00 AM and 4:00 PM during normal business days in the Public Reference Room, Industry Analysis Division, Common Carrier Bureau, located on the Plaza Level at 1250 23rd Street, N.W., Washington, D.C. and may also be purchased from the Commission's copy contractor, International Transcription Service, at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Telephone: 202–857–3800.

Synopsis of Declaratory Order

1. Background

As the largest local exchange carrier in northern Illinois, Ameritech serves as the administrator of numbering plan area (NPA) 312 (serving Chicago) and NPA 708 (which covers an adjacent suburban area). NPAs are more popularly known as ''area codes.'' In early 1994, Ameritech announced that the supply of central office codes within NPA 708 was nearing exhaustion and later presented its plan for relief of the anticipated shortage. Central office (CO) codes are the three-digit numbers that follow the NPA and precede the four-digit line number. Accordingly, each CO code represents about 10,000 telephone line numbers.

The Ameritech plan included the following elements: Ameritech would cease providing CO codes in NPA 708 to cellular and paging carriers and such wireless carriers would be required to ''give back'' to Ameritech NPA 708 CO

codes currently assigned to them. NPA 708 CO office codes returned by wireless carriers would then be used by Ameritech to assign NPA 708 CO codes to its own customers, to customers of competitive access providers, and to other wireline customers.

Ameritech would utilize a new NPA (630) to create an overlay NPA. This new overlay would cover the same geographic area as the existing NPAs 708 and 312. With such an ''overlay'' arrangement, a customer in NPA 708 or 312 could be served by both the new overlay NPA (630) and by its existing NPA.

Until the new NPA (630) became available, wireless customers requesting CO codes for NPA 708 would have to accept CO codes from NPA 312. When the new NPA (630) became available, wireless carriers would then be able to obtain CO codes from either NPA 312 or 630 but not from NPA 708.

Ameritech petitioned the Illinois Commerce Commission (ICC) on July 29, 1994, for approval of its plan. Petitioners filed their Petition on August 4, 1994. The Commission issued a Public Notice seeking comment. At the release of the Order, the ICC had not yet acted upon Ameritech's petition.

2. Federal/State Jurisdiction

The Commission explained that the Communications Act establishes a dual regulatory system of telephone service by granting to the Commission authority to regulate interstate and foreign commerce in wire and radio communication while reserving to the states jurisdiction with respect to intrastate communications service. While there was no need for the Commission to take such action in this case, the Commission did note there might be future situations in which a state's regulation of a local exchange carrier's numbering activities could raise the issue of preemption. However, in this case, the Commission declined to await the outcome of the ICC proceedings because of the impact on interstate and foreign telecommunications; because of violations of the Communications Act in parts of Ameritech's plan; and because of the strong possibility that defects in the Ameritech plan might be repeated in the relief plans being drawn elsewhere.

3. Federal Policy Objectives

As indicated above, the Commission declared the importance of modernization of telecommunications infrastructure, the introduction of new technologies, and the encouragement of new interstate and international services to meeting its goals under the Communications Act to make available to all the people of the United States a rapid, efficient, Nation-wide, and world wide wire and radio communications service.

The Commission identified competition as the best means for achieving these objectives and noted that a uniform national system of numbering is essential to the efficient delivery of telecommunications services. Because of the importance of such a numbering system, the Commission declared that NPA codes and related central office codes should be viewed as essential resources to be shared as fairly and equitably as possible by all carriers who require such codes to offer telecommunications services.

In addition, the Commission noted that administration of the NANP significantly affects the ease with which new telecommunications services are introduced by existing carriers and that it should also facilitate marketplace entry of new carriers by making numbering resources available on an efficient, timely basis.

The Commission, also stated that successful number administration should not unduly favor or disadvantage any particular industry segment or group of consumers, that number administration should be largely technology neutral, and that, as a result, it should not unduly favor one technology over another.

The Commission further determined that number administrators must treat all applicants for codes in an impartial manner by providing telephone resources to them in accordance with the Act. Accordingly, each carrier's number administration practices and services must be just, reasonable, and not unreasonably discriminatory.

Measured against these principles, the Commission found the Ameritech plan to be deficient because it would unreasonably discriminate against wireless carriers and would, therefore, violate these principles.

4. Unreasonable Discrimination

Petitioners alleged several parts of Ameritech's plan to be unreasonably discriminatory in violation of Section 202(a) of the Communications Act, 47 U.S.C. 202(a): Ameritech's proposal to continue assigning NPA 708 codes to wireline carriers while excluding paging and cellular carriers from such assignments (''exclusion proposal''); Ameritech's proposal to require only paging and cellular carriers to take back from their subscribers and return to Ameritech all 708 telephone numbers previously assigned to them while wireline carriers would not be required to do so (''take back'' proposal); and Ameritech's proposal to assign all new numbers to paging and cellular exclusively from the existing NPA 312 and the new NPA 630 while wireline carriers (and perhaps others) may continue to receive such assignments from NPA 708 (''segregation proposal'').

While acknowledging such impacts on paging and cellular carriers, Ameritech denied its plan would result in any unjust or unreasonable discrimination. On the contrary, Ameritech claimed its proposals were necessary and reasonable because the largest proportion of recent demand for NPA 708 numbers had come from wireless carriers; transfer of such carriers to NPA 312 and later NPA 630 from NPA 708 would most significantly decrease demand for increasingly scarce NPA 708 numbers, and that such transfer of carriers would not have a significant impact on either their customers, the network or the dialing plan. Ameritech also contended its plan did not unreasonably discriminate because the plan treats alike all providers of wireless services, including Ameritech's cellular affiliate, and because having such wireless carriers utilize NPA 312 CO codes instead of NPA 708 CO codes was, in Ameritech's view, the only feasible conservation measure. Because their customers' wireless terminals do not have a fixed (hard-wired) location on the public switched telephone network, Ameritech argued that paging and cellular carriers, unlike wireline carriers, are able to utilize NPA 312 CO codes within the NPA 708 geographical area.

The Commission found that Ameritech's ''exclusion,'' ''segregation,'' and ''take-back'' proposals violate the prohibition in the Act against unjust or unreasonable discrimination.

5. Unjust, Unreasonable Conduct

Petitioners also contended that Ameritech's ''exclusion,'' ''take back,'' and ''segregation'' proposals would constitute unjust and unreasonable practices in violation of Section 201(b) of the Communications Act, 47 U.S.C. 201(b). They further contended that Ameritech's plan violated applicable industry guidelines because it did not provide affected parties with a meaningful opportunity to participate in formulating the plan and because Ameritech failed to give adequate consideration to the impact of the plan on paging carriers and their customers. Ameritech asserted that it followed applicable guidelines in formulating its plan but that if the Commission finds that the plan conflicts with such

guidelines, Ameritech argues that those guidelines give it authority to refine conservation procedures as necessary to achieve code relief. Ameritech also contended that in an emergency situation such as the one faced in NPA 708, ''first-come, first-serve'' policies must be suspended. The United States Telephone Association contended any conflict with such guidelines would not be relevant because such guidelines have not yet been formally adopted and that, even if formal guidelines had been adopted, compliance would be voluntary.

The Commission found that Ameritech's ''exclusion,'' ''take-back,'' and ''segregation'' proposals represent unjust and unreasonable practices under Section 201(b) of the Communications Act and therefore would be unlawful if implemented. Specifically, the Commission found that these three facets of Ameritech's plan prevent that plan from achieving three important objectives: (a) optimal dialing plan; (b) minimal burden and (c) an uninterrupted supply of codes and related numbers. The Commission also found that Ameritech's justifications were not persuasive because those justifications could not override the fact that these facets of the plan would inhibit competition in the interstate access market.

6. Delegated Authority

To facilitate future supervision of numbering issues, the Commission delegated authority to the Common Carrier Bureau to resolve future number resources allocation disputes. That Bureau was directed to resolve such issues in coordination with the Wireless Telecommunications Bureau and other Bureaus of the Commission.

7. Accordingly, pursuant to Section 1, 4(i), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, ad 403, and pursuant to Section 1.2 of the Commission's Rules, 47 CFR 1.2, it is ordered that the Request for Declaratory Ruling filed by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc., is granted in part and is otherwise denied as set forth herein.

8. It is further ordered that Ameritech's Motion to accept late-filed comments is hereby accepted.

9. It is further ordered that the Request for Interlocutory Order filed by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc., is denied as set forth herein.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9186 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the National Fire Academy.

DATES OF MEETING: June 1–3, 1995.

PLACE: Building G Conference Room, National Emergency Training Center, Emmitsburg, Maryland.

TIME: June 1, 1995, 8:30 a.m.–5:00 p.m.; June 2, 1995, 8:30 a.m.–9:00 p.m.; June 3, 1995, 8:30 a.m.–5:00 p.m.

PROPOSED AGENDA: June 1–3: Conduct the On Campus Program Survey and Review the Fiscal year 1995 and Fiscal Year 1996 Budgets.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating available on a first-come first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before May 15, 1995.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 5, 1995.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 95–9390 Filed 4–14–95; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. 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, D.C. 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.: 202–011375–018.

Title: Trans-Atlantic Conference

Parties:

Atlantic Container Line AB
P&O Containers Limited
Sea-Land Service, Inc.
Hapag-Lloyd AG
Nedlloyd Lijnen BV
A.P. Moller-Maersk Line
Cho Yang Shipping Co. Ltd.
Mediterranean Shipping Company, S.A.
DSR-Senator Lines
Polish Ocean Lines
Orient Overseas Container Line (UK) Ltd.
Transportacion Maritima Mexicana, S.A. de C.V.
Neptune Orient Lines Ltd.
Nippon Yusen Kaisha
Tecomar S.A. de C.V.
Hanjin Shipping Co., Ltd

Synopsis: The proposed amendment modifies ANNEX B—Space/Slot Chartering and Equipment Exchange to confine space/slot chartering operations under the Agreement to ad hoc, sporadic or emergency movements. This provision complies with the Commission's *Order Conditionally Approving Settlement* (dated March 2, 1995) in Fact Finding Investigation No. 21 and Dockets 94–29 and 94–30.

Agreement No.: 224–003800–014.

Title: City of Long Beach/California United Terminals Terminal Agreement

Parties:

City of Long Beach California United Terminals

Synopsis: The proposed amendment provides for an adjustment of the compensation payable for the five year segment of the term commencing July 1, 1994 and ending June 30, 1999.

By Order of the Federal Maritime Commission.

Dated: April 12, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–9417 Filed 4–14–95; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 95–06]

Marine Dynamics v. RTM Line, Ltd.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Marine Dynamics (''Complainant'') against RTM Line, Ltd. (''Respondent'') was served April 12, 1995. Complainant alleges that Respondent has violated sections 10(b)(1), 10(b)(3), 10(b)(5), 10(b)(6), 10(b)(10), 10(b)(12) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709 (b)(1), (b)(3), (b)(5), (b)(6), (b)(10), (b)(12) and (d)(1), by overcharging or unlawfully charging for ocean freight and other services in connection with the shipment of a cradled work boat from Jacksonville, Florida to Doha, Qatar.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 12, 1996, and the final decision of the Commission shall be issued by August 12, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 95–9418 Filed 4–14–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Alfred L. Cohen, 9571 S.W. First Court, Coral Hills, FL 33071, Sole Proprietor

Cargo Forwarders International Corp., 101–111 NE 23rd Street, Miami, FL 33137, Officers: Wilfredo Agusti, President; Rosa Benitez, Secretary

T L International, 824 W. Commonwealth Ave., Alhambra, CA 91801, Chien C. Tang, Sole Proprietor

Freight Solutions, Inc., 355 Swift Ave., So. San Francisco, CA 94080, Officers; Patrick H. Crenshaw, President; Thomas A. Sciolla, Vice President.

By the Federal Maritime Commission.

Dated: April 12, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–9419 Filed 4–14–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notice of Establishment; Notice of Meeting

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of establishment.

ACTION: Notice of meetings.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) announces the establishment of a federal advisory committee to evaluate and make recommendations to the FMCS regarding FMCS's Labor-Management Cooperation Grants Program. The committee will meet in Washington, D.C. from June 19, 1995 until June 23, 1995. It will stay in operation until the end of the fiscal year, September 30, 1995.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act, 5 U.S.C. Appx. 9, notice is given that the FMCS has established a federal advisory committee to evaluate and make recommendations to the agency about the FMCS Labor-Management Cooperation Grants Program. Congress specifically requested that FMCS conduct a review of this program for fiscal year 1995. This review will involve evaluating the overall program and issuing recommendations to improve it. The committee will also evaluate the grants process, specific applicants, and make recommendations on who should receive labor-management committee grants. The committee will be called the Grants Program Review and Advisory Committee.

Five grant review boards will sit to evaluate the applications. Each board will focus on a review of applications of the following areas: industry labor-management committees, area labor-management committees, in-plant committees, public (state and local) committees, and public education committees. Each board will consist of three individuals selected from the following pool of committee members: three representatives from state government labor-management programs, three former grantees, one member from a national trade union association, one from a national business or industry organization, one from the National Labor-Management Association, one from a professional association such as the Industrial Relations Research Association, and five mediators. One federal mediator will sit on each board. The boards will then convene as the full committee to discuss their findings and make recommendations to the agency.

The scope of the committee is limited to reviewing the current process, evaluating the direction of the grants program, and issuing recommendations for actual grants. FMCS will provide the necessary support for the committee. The full committee or the individual review boards will meet as often as necessary. The advisory committee will issue a final report on its findings and recommendations. The official to whom the committee will report is the Director of the Federal Mediation and Conciliation Service. The Grants Program Manager, Peter Regner, will serve as Chairman to the Committee. The advisory committee should not be needed after September 30, 1995.

TIME AND DATES OF MEETINGS: The first meeting of the Grants Program Review and Advisory Committee will begin at 12 p.m. on June 19, 1995. The last session is scheduled to begin at 9 a.m. on June 23, 1995.

PLACE OF MEETINGS: The meetings will be held in the Ching Room, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC.

STATUS OF MEETINGS: The portions of the meetings in which determinative decisions are being made as to grant applications will be closed to the public. The portions of the meetings in which evaluations of and recommendations for the grants program are issued will be open to the public.

MATTERS TO BE CONSIDERED AT MEETINGS: Review and evaluation of Labor-

Management Cooperation Grants Program, and review and recommendations of labor-management grant applicants.

FOR FURTHER INFORMATION CONTACT: Peter Regner, Grants Program Manager, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC, 20427, 202–608–8181.

Dated: April 10, 1995.

John Calhoun Wells,

Director.

Grants Program Review and Advisory Committee Charter

1. The official designation of this advisory committee is the ''Grants Program Review and Advisory Committee.''
2. The Committee shall advise the Director of the Federal Mediation and Conciliation Service on methods of improving the efficiency of the Labor-Management Cooperation Grants Program; participate in reviewing grants applicants and advise the Grants Program Manager on appropriate grant recipients; and otherwise review, evaluate and make recommendations on the grants program.
3. The Committee will be composed of five grant review boards. Each board will focus on a review of the following areas: Industry labor-management committee review, area committee review, in-plant committee review, public (state and local) committee review, or public education committee review. The boards will then convene as the full committee to discuss their findings and make recommendations to the agency.
4. Each review board will consist of three individuals selected from the following pool of individuals: three representatives from state government labor-management programs, three former grantees, one member from a national trade union association, one from a national business or industry organization, one from the National Labor-Management Association, one from a professional association such as the Industrial Relations Research Association, and five federal mediators. One federal mediator will sit on each board. No committee member shall have submitted a grant pending review with the Grants Program.
5. In view of the foregoing objectives and scope of activity, the Panel is expected to continue for not longer than a period of four months, beginning on June 1, 1995, and terminating on September 30, 1995.
6. The Committee will report to the Director and the Grants Program Manager as requested.
7. Necessary support will be provided by the Federal Mediation and Conciliation Service.
8. The duties of the Committee are solely advisory and are described in number ''2'' above.
9. The estimated annual operating costs for the Committee are travel and per diem expenses for committee members for meetings held in Washington, DC. This is expected to cost approximately $10,000.
10. The full Committee or its Review Boards will meet as often as necessary at the call of Peter Regner, who is the Chair of the Committee.
11. This charter was filed with the following on March 17, 1995:
    Mr. Michael Neff, Committee Management Secretariat, General Services Administration, 18th and F Streets NW., CAM, Room 7007, Washington, DC 20405
    Library of Congress, Exchange and Gifts Division, Federal Documents Section, Federal Advisory Committee Desk, LM 632, 101 Independence Avenue, SE., Washington, DC 20540–4200.

Additional information regarding the Grants Program Review and Advisory Committee may be obtained from the Grants Program Manager, Mr. Peter Regner, Federal Mediation and Conciliation Service, Washington, DC 20427, telephone: (202) 606–8181.

Dated: March 17, 1995.

John Calhoun Wells,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 95–9360 Filed 4–14–95; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Fleet Financial Group, Inc., Providence, Rhode Island; to acquire, through Fleet Real Estate Funding Corp., Columbia, South Carolina, Plaza Home Mortgage Servicing Corporation, Albuquerque, New Mexico, from its wholly-owned subsidiary, Fleet National Bank, Providence, Rhode Island, and thereby engage in mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9361 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

KeyCorp; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking

activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. KeyCorp, Cleveland, Ohio, and Key Bancshares of Wyoming, Cheyenne, Wyoming; to engage *de novo* through Key Bancshares of Wyoming, in making consumer and home mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9362 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

National City Corporation; Application to engage in certain Nonbanking Activities

National City Corporation, Cleveland, Ohio (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire Raffensperger, Hughes & Co., Incorporated, Indianapolis, Indiana, and thereby engage through NatCity Investments, Inc., Cleveland, Ohio (Company), in underwriting and dealing in debt and equity securities of all types, other than shares of open-end investment companies. These activities will be conducted throughout the United States.

Applicant maintains that the Board previously has determined that the proposed activities are closely related to banking. Applicant states that Company would conduct the proposed activities within the limitations and prudential guidelines established by the Board in previous orders. *See Canadian Imperial Bank of Commerce*, 76 Federal Reserve Bulletin 158 (1990); *J.P. Morgan & Co. Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Industries Ass'n v. Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990); and *Citicorp, et al.*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988). In connection with its application, Applicant has requested permission to retain the director and officer interlocks between Company and its affiliated banks previously permitted by the Board. *See National City Corporation*, 80 Federal Reserve Bulletin 346 (1994). Applicant also has requested that the securities brokerage subsidiary of National City Bank, Cleveland, Ohio, be permitted to act as introducing broker for customers in securities transactions that would be forwarded to Company for execution and clearance, and that Company be permitted to calculate compliance with the revenue limitation on an annualized basis during the first year following consummation of the acquisition since Applicant is acquiring a going concern. *See First of America Corporation*, 80 Federal Reserve Bulletin 1120 (1994); *Dauphin Deposit Corporation*, 77 Federal Reserve Bulletin 672 (1991).

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company ''can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' 12 U.S.C. § 1843(c)(8). Applicant believes that the proposal would produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal would enhance competition and enable Applicant to offer its customers a broader range of products. Applicant also maintain that its proposal would not result in any adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 5, 1995. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9363 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

Pikeville National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 11, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pikeville National Corporation, Pikeville, Kentucky; to acquire 100 percent of the voting shares of Commercial Bank, Middlesboro, Kentucky.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Pilot Bancshares, Inc., Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Terrace Interim Bank, Tampa, Florida (in organization).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community Financial Corp., Olney, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank & Trust, fsb, Olney, Illinois, which will convert from a federally-chartered stock savings bank to a national bank and operate under the name of Community Bank & Trust, N.A., Olney, Illinois.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Southern Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of First State Bank Brazoria, Brazoria, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9364 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

[GSA Bulletins FTR 14 and 15]

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses for Official Travel to Augusta, Georgia and Oshkosh, Wisconsin

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of bulletins.

SUMMARY: The attached bulletins inform agencies of the establishment of a special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia and Oshkosh (Winnebago County), Wisconsin. The Secretary of Transportation (DOT) requested establishment of the increased rates to accommodate employees who perform temporary duty in either of the two localities and who experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Masters Golf Tournament in Augusta, or the annual Experimental Aircraft Association Convention and Show in Oshkosh.

EFFECTIVE DATES: This special rate is applicable to claims for reimbursement covering travel to Augusta, Georgia during the period April 3 through April 9, 1995; and to Oshkosh, Wisconsin during the period July 22 through August 5, 1995.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: The Administrator of General Services, pursuant to 41 CFR 301–8.3(c) and at the official request of the Secretary of Transportation, has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 3 through April 9, 1995, and to Oshkosh (Winnebago County), Wisconsin for travel during the period July 22 through August 5, 1995. The attached GSA Bulletins FTR 14 and 15 are issued to inform agencies of the establishment of these special actual subsistence expense ceilings.

Dated: April 10, 1995.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

ATTACHMENT 1

[GSA Bulletin FTR 14]

April 7, 1995

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for official travel to Augusta (Richmond County), Georgia

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia, due to the escalation of lodging rates during the annual Masters Golf Tournament held there. This special rate applies to claims for reimbursement covering travel during the period April 3, 1995, through April 9, 1995.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR chapters 301–304) part 301–8 permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. The Secretary of Transportation (DOT) requested establishment of such a rate for Augusta to accommodate employees who perform temporary duty there and experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Masters Golf Tournament. These circumstances justify the need for higher subsistence expense reimbursement in Augusta during the designated period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 3, 1995, through April 9, 1995. Agencies may approve actual subsistence expense reimbursement not to exceed $210 ($184 maximum for lodging and a $26 allowance for meals and incidental expenses) for official travel to Augusta (Richmond County), Georgia, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1995.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

ATTACHMENT 2

[GSA Bulletin FTR 15]

April 7, 1995

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Oshkosh (Winnebago County), Wisconsin, due to the escalation of lodging rates during the annual Experimental Aircraft Association Convention and Show held there. This special rate applies to claims for reimbursement covering travel during the period July 22, 1995, through August 5, 1995.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR chapters 301–304) part 301–8 permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. The Secretary of Transportation (DOT) requested establishment of such a rate for Oshkosh to accommodate employees who perform temporary duty there and experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Experimental Aircraft Association Convention and Show. These circumstances justify the need for higher subsistence expense reimbursement in Oshkosh during the designated period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin for travel during the period July 22, 1995, through August 5, 1995. Agencies may approve actual subsistence expense reimbursement not to exceed $167 ($137 maximum for lodging and a $30 allowance for meals and incidental expenses) for official travel to Oshkosh (Winnebago County), Wisconsin, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1995.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

[FR Doc. 95–9358 File 4–14–95; 8:45 am]

BILLING CODE 6820–24–F

GOVERNMENT PRINTING OFFICE

The Federal Register Online via GPO Access; Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the Federal Register and Other Federal Databases

The Superintendent of Documents will hold a public meeting for Federal, state and local government agencies, and others interested in an overview and demonstration of the Government Printing Office's online service GPO Access, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Pub. L. 103–40).

The session will be held at the Denver Public Library, Conference Center B, Level B–2, 1357 Broadway St., Denver, CO 80203–2165 on Monday, May 1 from 9 a.m. to 11 a.m.

The online **Federal Register** Service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day of publication. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database as ASCII text files, with graphics provided in TIFF format. The online **Federal Register** is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through GPO Access include the Congressional Record; Congressional Record Index, including the History of Bills; Congressional Bills; Public Laws; and U.S. Code.

Individuals interested in attending may reserve a space by contacting the Governments Publication Library at the University of Colorado, Boulder by telephone: (303) 492–3983 or by contacting John Berger, Product Manager at the GPO's Office of Electronic Information Dissemination Services, by telephone: (202) 512–1525; by fax: (202) 512–1262; or by Internet e-mail at john@eids06.eids.gpo.gov. Seating reservations will be accepted through Wednesday, April 26, 1995.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–9394 Filed 4–14–95; 8:45 am]

BILLING CODE 1505–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

President's Council on Physical Fitness and Sports

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: May 22, 1995, 7:00 p.m.

ADDRESSES: Hyatt Regency Atlanta (Stuart Room—Scheduled) 265 Peachtree Street NE., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Sandra Perlmutter, Executive Director, President's Council on Physical Fitness and Sports, 701 Pennsylvania Avenue NW., suite 250, Washington, DC 20004–2608 202/272–2145.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12345, as amended, and subsequent orders. The functions of the Council are: (1) To advise the President and the Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress; (2) advise the President and the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports actions to

extend and improve physical activity programs and services; and (3) advise the President and the Secretary on state, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the members of the national program on physical fitness and sports, to report on ongoing Council initiatives, and to plan for future directions.

Dated: April 11, 1995.

Sandra Perlmutter,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 95–9368 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–17–M

Agency for Toxic Substances and Disease Registry

Public Meeting of the Native American Working Group, in Association With the Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting:

Name: Public Meeting of the Native American Working Group (NAWG), in association with the meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee.

Time and date: 8:30 a.m.–12 noon, May 15, 1995.

Location: The Portland Hilton Hotel, 921 S.W. Sixth Avenue, Portland, Oregon 97204, telephone (503) 226–1611, FAX (503) 220–2293.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of NAWG is part of these efforts. NAWG will work with the Hanford Health Effects Subcommittee to provide input on Native American health effects at the Hanford, Washington, site.

Purpose: The purpose of this meeting of NAWG is to discuss Native American membership and participation on the Hanford Health Effects Subcommittee, government-to-government working relations with ATSDR and CDC, and issues related to site restoration and waste management options at the Hanford DOE site.

Matters To Be Discussed: Agenda items will include options for other types of relationships between the tribes and ATSDR and CDC regarding the study of health effects from past, current, or future release of radioactive and hazardous materials into the environment at Hanford and proposed actions based on the findings of ATSDR and CDC health research and public health activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–0730, FAX (404) 639–0759.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9334 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–70–M

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 1 p.m.–5 p.m., May 15, 1995; 8 a.m.–5 p.m., May 16, 1995; 7 p.m.–8 p.m., May 16, 1995. This session is for public comments and concerns.

Place: The Portland Hilton Hotel, 921 S.W. Sixth Avenue, Portland, Oregon 97204, telephone (503) 226–1611, FAX (503) 220–2293.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Purpose: The purpose of this meeting is to continue the subcommittee's work to update the public on the status of ATSDR's and CDC's community involvement plans, health research, public health activities, and to provide advice to ATSDR and CDC concerning these plans.

Matters To Be Discussed: Agenda items include ATSDR's medical monitoring options, ATSDR's planning for a medical assistance program, and current ATSDR health assessment activities. The subcommittee will solicit concerns which they will ask ATSDR and CDC to address, and discuss issues relating to HHES Operational Guidelines and future subcommittee activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (404) 639–0730, FAX (404) 639–0759.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9333 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–70–M

Centers for Disease Control and Prevention

Technical Advisory Committee for Diabetes Translation and Community Control Programs: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Times and Dates: 1 p.m.–5 p.m., Thursday, May 4, 1995. 8 a.m.–11:30 a.m., Friday, May 5, 1995.

Place: Adam's Mark Hotel, Vail Room, 1550 Court Place, Denver, Colorado 80202–5199, telephone 303/893–3333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce risk factors, morbidity, and mortality from diabetes and its complications. The committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters To Be Discussed: Committee members will discuss progress towards a National Diabetes Education Program, evolving strategies and scientific activities related to screening for Type II diabetes, possible participation by CDC in the National Institutes of Health-sponsored Diabetes Prevention Trial-Type II, policy and economic activities, and the status of mechanisms of CDC's Division of Diabetes Translation support to States.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Cheryl Shaw, Program Specialist, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, Mailstop K–10, Atlanta, Georgia 30341–3724, telephone 404/488–5004.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9336 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 9 a.m.–5 p.m., May 4, 1995; 9 a.m.–12 noon, May 5, 1995.

Place: Sheraton Suites Hotel, 801 North St. Asaph Street, Alexandria, Virginia 22314.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary of Health and Human Services (HHS); the Assistant Secretary for Health; the Director, CDC; and the Administrator, Agency for Toxic Substances and Disease Registry, on the establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies. The committee will take into consideration information and proposals provided by the Department of Energy (DOE), the Advisory Committee for Environment Safety and Health which was established by DOE under the guidelines of a Memorandum of Understanding between HHS and DOE, and other agencies and organizations, regarding the direction HHS should take in establishing the research plan and in the development of a research plan.

Matters To Be Discussed: The committee will discuss working group recommendations, environmental data and research methods, the research agenda, and public involvement activities. Presentations will be made by DOE on the Conference on Epidemiologic Data Resources and occupational surveillance plans and progress.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway NE., Mailstop F–35, Atlanta, Georgia 30341–3724; telephone 404/488–7040.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9337 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 8:30 a.m.–5 p.m., May 4, 1995; 8:15 a.m.–1:15 p.m., May 5, 1995.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: The agenda will focus on:

1. Update: Implementation of CDC Emerging Infections Plan.
2. CDC Laboratories Master Plan.
3. Linkages between HIV/Sexually Transmitted Diseases/Tuberculosis Laboratories and Programs in other Centers.
4. Fiscal Year (FY) 1995 Budget Rescissions and FY 1996 Budget Outlook.
5. The CDC Foundation.
6. Update—Antibiotic Resistance.

Other agenda items include announcements/introductions; NCID update; late breakers; and follow-up on actions recommended by the board (December 1994).

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9335 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0098]

Drug Export; Vironostika® HTLV–I/II Microelisa System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Organon Teknika Corp. has filed an application requesting approval for the export of the human biological product Vironostika® HTLV–I/II Microelisa System to The Netherlands.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Cathy Conn, Center for Biologics Evaluation and Research (HFM–610), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–1070.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of human biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Organon Teknika Corp., 100 Akzo Ave., Durham, NC 27712, has filed an application requesting approval for the export of the human biological product Vironostika® HTLV–I/II Microelisa System to The Netherlands. The Vironostika® HTLV–I/II Microelisa System is an in vitro diagnostic test kit for the detection of antibodies to Human T–Lymphotropic Virus Type I (HTLV–I) and/or Human T–Lymphotropic Virus Type II (HTLV–II) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on March 2, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information onthe application to do so by April 27, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: March 22, 1995.

James C. Simmons,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 95–9413 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0122]

Hema Systems, Ltd.; Revocation of U.S. License No. 1052

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1052) and product licenses (the licenses) issued to Hema Systems, Ltd., for the manufacture of Whole Blood, Plasma, Fresh Frozen Plasma, Red Blood Cells, Red Blood Cells Frozen, Red Blood Cells Deglycerolized, Red Blood Cells Leukocytes Removed, Red Blood Cells Frozen Rejuvenated, and Red Blood Cells Rejuvenated Deglycerolized. Hema Systems, Ltd., did not respond to a notice of opportunity for a hearing on a proposal to revoke its licenses.

DATES: The revocation of the establishment license (U.S. License No. 1052) and product licenses is effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is revoking the establishment license (U.S. License No. 1052) and product licenses issued to Hema Systems, Ltd., formerly located at 310 East 44th St., New York, NY 10017, for the manufacture of Whole Blood, Plasma, Fresh Frozen Plasma, Red Blood Cells, Red Blood Cells Frozen, Red Blood Cells Deglycerolized, Red Blood Cells Leukocytes Removed, Red Blood Cells Frozen Rejuvenated, and Red Blood Cells Rejuvenated Deglycerolized.

An attempted onsite inspection by FDA on August 26, 1992, revealed that the facility was no longer in operation at the location listed on the license. The U.S. Post Office reported no forwarding address for the firm. Based on the inability of authorized FDA employees to conduct a meaningful inspection of the facility, FDA initiated proceedings for the revocation of the licenses under 21 CFR 601.5(b)(1) and (b)(2). FDA issued a certified letter dated November 3, 1992, to the firm stating FDA's intent to revoke the licenses and its intent to offer an opportunity for a hearing on the proposed revocation. The letter was returned to FDA as undeliverable.

Pursuant to 21 CFR 12.21(b), FDA published in the **Federal Register** of May 14, 1993 (58 FR 28589), a notice of opportunity for a hearing on a proposal to revoke the licenses of Hema Systems Ltd. In the notice, FDA explained that the proposed license revocation was based on the inability of authorized FDA employees to conduct a meaningful inspection of the facility because it was no longer in operation and noted that documentation in support of the license revocation had been placed on file for public examination with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. The notice provided the firm 30 days to submit a written request for a hearing and 60 days to submit any data and information justifying a hearing. The notice provided other interested persons with 60 days to submit written comments on the proposed revocation. The firm did not respond within the 30-day time period with a written request for a hearing. The 30-day time period, prescribed in the notice of opportunity for a hearing and in the regulations, may not be extended. One comment was submitted from the State of New York Department of Health which indicated that the facility was closed according to their records.

Accordingly, under 21 CFR 12.38, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the establishment license (U.S. License No. 1052) and the product licenses issued to Hema Systems, Ltd., are revoked, effective April 17, 1995.

This notice is issued and published under 21 CFR 601.8.

Dated: April 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9412 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0109]

Houston Apheresis, Inc.; Revocation of U.S. License No. 990

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 990) and product licenses (the licenses) issued to Houston Apheresis, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma. Houston Apheresis, Inc., did not respond to a notice of opportunity for a hearing on a proposal to revoke its licenses.

DATES: The revocation of the establishment license (U.S. License No. 990) and product licenses is effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is revoking the establishment license (U.S. License No. 990) and product licenses issued to Houston Apheresis, Inc., formerly located at 9265 Kirby Dr., Houston, TX 77054, for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma.

An attempted onsite inspection by FDA on March 26, 1991, revealed that the facility was no longer in operation at the location listed on the license. A forwarding address, obtained from the post office for the facility, was the home address of the Responsible Head. An FDA investigator left messages for the Responsible Head requesting that the agency be contacted; however, the messages were not returned. Based on the inability of authorized FDA employees to conduct an inspection of the facility after reasonable efforts, FDA initiated proceedings for the revocation of the licenses under 21 CFR 601.5(b). FDA issued a certified letter, dated October 26, 1992, to the Responsible Head of the firm, providing notice of FDA's intent to revoke the licenses and its intent to offer an opportunity for a hearing on the proposed revocations.

Pursuant to 21 CFR 12.21(b), FDA published in the **Federal Register** of May 18, 1993 (58 FR 28982), a notice of opportunity for a hearing on a proposal to revoke the licenses of Houston Apheresis, Inc. In the notice, FDA explained that the proposed license revocation was based on the inability of authorized FDA employees to conduct an inspection of the facility, which was no longer in operation, and noted that documentation in support of the license revocation had been placed on file for public examination with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. The notice provided the firm with 30 days to submit a written request for a hearing and 60 days to submit any data and information justifying a hearing. The notice provided other interested persons with 60 days to submit written comments on the proposed revocation. The firm did not respond within the 30-day time period with a written request for a hearing. The 30-day time period, prescribed in the notice of opportunity for a hearing and in the regulations, may not be extended. No other interested persons submitted written comments on the proposed revocation within the 60-day time period.

Accordingly, under 21 CFR 12.38, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the establishment license (U.S. License No. 990) and the product licenses issued to Houston Apheresis, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma, are revoked, effective April 17, 1995.

This notice is issued and published under 21 CFR 601.8 and 12.38.

Dated: April 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9410 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–01–F

Regulatory Concerns in Biopharmaceutical Manufacturing; Notice of Public Workshops

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Office of the Pacific Region, Office of the Southwest Region, Center for Biologics Evaluation and Research, Center for Drug Evaluation and Research, and Office of External Affairs) is announcing a series of three free public workshops to assist small companies that are developing and producing biopharmaceutical and biologic therapeutic products for clinical trials and product marketing approval. The workshops will address regulatory policy, licensing requirements, cooperative manufacturing arrangements, multi-product facilities, clinical trial design, and manufacturing requirements for clinical material.

DATES: The public workshops are scheduled as follows:

1. Monday, May 22, 1995, 8:30 a.m. to 5 p.m., Houston, TX.
2. Wednesday, May 24, 1995, 8:30 a.m. to 5 p.m., San Diego, CA.
3. Friday, May 26, 1995, 8:30 a.m. to 5 p.m., San Francisco, CA.

ADDRESSES: The public workshops will be held at the following locations:

1. Houston—Rice University, Sewall Hall, rm. 301, Houston, TX.
2. San Diego—Pan Pacific Hotel, 400 West Broadway, San Diego, CA.
3. San Francisco—Holiday Inn Golden Gateway, 1500 West Van Ness Ave., San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Regarding registration for the Houston TX, public workshop: Marie T. Falcone, Small Business Representative Southwest Region, Food and Drug Administration, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247, 214–655–8100, ext. 128 or FAX 214–655–8130. Regarding registration for the San Diego and San Francisco workshops: Mark S. Roh, Small Business Representative Pacific Region, Food and Drug Administration, Federal Office Bldg., 50 United Nations Plaza, San Francisco, CA 94102, 415–556–2263 or FAX 415–556–2822.

SUPPLEMENTARY INFORMATION: The public workshops are free of charge, however registration is required. Due to space limitations, early registration is recommended. To register please submit your name(s), affiliation, address, phone and fax numbers and any specific questions you want addressed at the workshop, to the contact person listed above.

The workshops are to further assist small companies that are developing and producing biopharmaceutical and biologic therapeutic products in better understanding current regulatory policy; licensing requirements for products and establishments and cooperative manufacturing arrangements; multiproduct facilities design and operation; clinical trial design and monitoring; points to consider during processing, cell culture, fermentation, harvest, recovery, purification and

ascites production; and current good manufacturing practice requirements in the production of clinical material, including recordkeeping, processing changes, and environmental monitoring.

Dated: April 12, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9411 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Environmental Health Sciences; Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, May 22–23, 1995, in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on May 22 from 9 a.m. to approximately 3:30 p.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 22 from approximately 3:30 p.m. to recess and from 9 a.m. to adjournment on May 23, for the review, discussion and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Kim Whitcher, Council Secretary, NIEHS, P.O. Box 12233, Research Triangle Park, N.C. 27709 (919–541–7723), will provide summaries of the meeting and rosters of council members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Whitcher in advance of the meeting.

Dr. Anne Sassaman, Director & Executive Secretary, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9310 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Multidisciplinary Course on the Genetics of Heart, Lung, and Blood Disease (Conference Call).

Date: April 24, 1995.

Time: 12:00 p.m.

Place: Rockledge Building (RKL2), Rm. 7220, Rockville, Maryland.

Contact Person: C. James Scheirer, Ph.D., 6701 Rockledge Drive, Room 7220, Bethesda, Maryland 20892–7924, (301) 435–0266.

Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Molecular Genetics of Hypertension—SCOR.

Date: April 30–May 1, 1995.

Time: 7:00 p.m.

Place: Holiday Inn Crowne Plaza, Rockville, Maryland.

Contact Person: Anthony M. Coelho, Jr., Ph.D., 6701 Rockledge Drive, Room 7182, Bethesda, Maryland 20892–7924, (301) 435–0277.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Programs of Excellence in Molecular Biology.

Date: May 17, 1995.

Time: 8:30 a.m.

Place: Holiday Inn, Bethesda, Maryland.

Contact Person: Lynn M. Amende, Ph.D., 6701 Rockledge Building, Room 7192, Bethesda, Maryland 20892–7924, (301) 435–0287.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9308 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Heart, Lung, and Blood Institute on June 1–2, 1995, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7C101, Bethesda, Maryland 20892.

This meeting will be open to the public from 8:30 to 9:00 a.m. on June 1 and from 8:30 to 9:00 a.m. on June 2 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. to adjournment on June 1 and from 9:00 a.m. to adjournment on June 2, 1995 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Board members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Substantive program information may be obtained from Dr. Edward D. Korn,

Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496–2116.

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9309 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Child Psychopathology and Treatment Review Committee
Date: May 31–June 2, 1995
Time: 9 a.m.
Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, D.C. 20037
Contact Person: Bernice R. Cherry, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1367

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee
Date: June 1–2, 1995
Time: 9 a.m.
Place: One Washington Circle Hotel, One Washington Circle NW., Washington, D.C. 20037
Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1177

Committee Name: Services Research Review Committee
Date: June 7–9, 1995
Time: 9 a.m.
Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, D.C. 20037
Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1367

Committee Name: Mental Disorders of Aging Review Committee
Date: June 8–9, 1995
Time: 9 a.m.
Place: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, D.C. 20009
Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1340

Committee Name: Clinical Psychopathology Review Committee
Date: June 8–9, 1995
Time: 8:30 a.m.
Place: Radisson Barcelo Washington Hotel, 2121 P Street NW., Washington, D.C. 20037
Contact Person: Phyllis Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–4868

Committee Name: Social and Group Processes Review Committee
Date: June 8–9, 1995
Time: 9 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814
Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–6470

Committee Name: Violence and Traumatic Stress Review Committee
Date: June 12–14, 1995
Time: 9 a.m.
Place: One Washington Circle Hotel, One Washington Circle NW., Washington, D.C. 20037
Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–6470

Committee Name: Health Behavior and Prevention Review Committee
Date: June 14–15, 1995
Time: 9 a.m.
Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road NW., Washington, D.C. 20015
Contact Person: Monica F. Woodfork, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–4843

Committee Name: Clinical Neuroscience and Biological Psychopathology Review Committee
Date: June 14–16, 1995
Time: 9 a.m.
Place: The Hampshire Hotel, 1310 New Hampshire Avenue NW., Washington, D.C. 20036
Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936

Committee Name: Treatment Assessment Review Committee
Date: June 15–16, 1995
Time: 8:30 a.m.
Place: Radisson Barcelo Washington Hotel, 2121 P Street NW., Washington, D.C. 20037
Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–4868

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee
Date: June 18–20, 1995
Time: 6 p.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815
Contact Person: Katie O'Donnell, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee
Date: June 19–20, 1995
Time: 9 a.m.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852
Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name: Epidemiology and Genetics Review Committee
Date: June 19–21, 1995
Time: 9 a.m.
Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road NW., Washington, D.C. 20015
Contact Person: Bernice R. Cherry, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1367

Committee Name: Neuropharmacology and Neurochemistry Review Committee
Date: June 21–23, 1995
Time: 8:30 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814
Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name: Cognitive Functional Neuroscience Review Committee
Date: June 22–23, 1995
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936

Committee Name: Perception and Cognition Review Committee
Date: June 22–23, 1995
Time: 9 a.m.
Place: One Washington Circle Hotel, One Washington Circle, N.W., Washington, D.C. 20037
Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

Committee Name: Mental Health Small Business Research Review Committee
Date: June 26–27, 1995
Time: 9 a.m.
Place: The River Inn, 924 25th Street NW., Washington, D.C. 20037
Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367

Committee Name: Mental Health AIDS and Immunology Review Committee–1
Date: June 27–28, 1995
Time: 8:30 a.m.
Place: St. James Hotel, 950 24th Street, Washington, D.C. 20037
Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

Committee Name: Mental Health AIDS and Immunology Review Committee–2
Date: July 13–14, 1995
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.291, ADAMHA Science Education Partnership Award)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9311 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Mental Health Council of the National Institute of Mental Health for May 1995.

The meeting will be open to the public, as indicated, for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named below in advance of the meeting.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, a portion of the Council will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the contact person indicated.

Name of Committee: National Advisory Mental Health Council

Date: May 15–16, 1995

Place:

May 15—Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892

May 16—Conference Rooms D and E, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Open: May 15, 9 a.m. to 5 p.m.

Closed: May 16, 9:30 a.m. to adjournment

Contact Person: Carolyn Strete, Ph.D., Executive Secretary, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3367.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9312 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Appendix B Subcommittee for the Recombinant DNA Advisory Committee; Meeting

Notice is hereby given of a meeting of the Appendix B Subcommittee for the Recombinant DNA Advisory Committee on May 5, 1995, at the National Institutes of Health (NIH), Building 31C, 6th Floor, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. The meeting will be open to the public to discuss updating Appendix B, *Classification of Microorganisms on the Basis of Hazard*, and additional revisions to the remaining appendices of the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496 and amended 59 FR 40170) that are required to adequately accommodate the revised Appendix B. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair. Attendance by the public will be limited to space available.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Suite 323, National Institutes of Health, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Wivel in advance of the meeting. A summary of the meeting will be available at a later date.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9313 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications

Name of SEP: Clinical Sciences

Date: April 24, 1995
Time: 8:30 a.m.
Place: Holiday Inn, National Airport, VA
Contact Person: Dr. Daniel McDonald, Scientific Review Admin., 5333 Westbard Ave., Room 350, Bethesda, MD 20892, (301) 594–7282

Name of SEP: Biological and Physiological Sciences
Date: June 5, 1995
Time: 8:00 a.m.
Place: Hyatt Regency, Bethesda, MD
Contact Person: Dr. Sandy Warren, Scientific Review Administrator, 6701 Rockledge Drive, Room 5134, Bethesda, MD 20892, (301) 594–7289

Name of SEP: Clinical Sciences
Date: June 5, 1995
Time: 8:30 a.m.
Place: ANA Hotel, Washington, DC
Contact Person: Dr. Mushtaq Khan, Scientific Review Admin., 6701 Rockledge Drive, Room 4045, Bethesda, MD 20892, (301) 594–7168.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9314 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Refugee Resettlement

Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 1995 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed availability of formula allocation funding for FY 1995 targeted assistance grants to States for services to refugees[1] in local areas of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 1995 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources. The formula has been updated to take into account FY 1994 arrivals.

DATES: Comments on this notice must be received by May 17, 1995.

ADDRESSES: Address written comments, in duplicate, to: Toyo A. Biddle, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

APPLICATION DEADLINE: The deadline for applications will be established by the final notice; applications should not be sent in response to this notice of proposed allocations.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CDFA) NUMBER: 93.584.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401–9250.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,397,000 in FY 1995 funds for the targeted assistance program (TAP) as part of the FY 1995 appropriation for the Department of Health and Human Services (Pub. L. 103–333).

The House Appropriations Committee Report reads as follows with respect to targeted assistance funds (H.R. Rept. No. 103–553, p. 93):

This program provides grants to States for counties which are impacted by high concentrations of refugees and high dependency rates. The Committee intends that $19,000,000 of the total recommended for targeted assistance be provided to continue the current program of support to communities affected as a result of the massive influx of Cuban and Haitian entrants. The Committee also intends that 10 percent of the total appropriated for targeted assistance be used for grants to localities most heavily impacted by the influx of refugees such as Laotian Hmong, Cambodians, and Soviet Pentecostals, including secondary migrants who entered the United States after October 1, 1979. The Committee expects these grants to be awarded to communities not presently receiving targeted assistance because of previous concentration requirements and other factors in the grant formulas, as well as those who do currently receive targeted assistance grants.

The Senate Appropriations Committee Report (S. Rept. No. 103–318, p. 154) is consistent with the above-quoted House Report.

The Conference Report on Appropriations (H. Rept. No. 103–733, p. 24) clarifies Congress' intent on the use of the $19 million for communities affected by Cuban and Haitian entrants as follows:

The conferees are agreed that $19,000,000 of the $49,397,000 appropriated for targeted assistance is to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased.

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,397,000 appropriated for FY 1995 targeted assistance as follows:

- $25,457,300 will be allocated under the updated formula, as set forth in this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals.
- $4,939,700 (10% of the total) will be awarded as second-year continuation grants in a two-year project period under a discretionary grant announcement that was issued in FY 1994.

In addition, the Office of Refugee Resettlement has available an additional $6,000,000 in FY 1995 funds to augment the targeted assistance 10% program through the Foreign Operations, Export

[1] In addition to persons who meet all requirements of 45 CFR 400.43, requirements for documentation of refugee status, eligibility for targeted assistance includes Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, and certain Amerasians from Vietnam who are U.S. citizens. (See section II of this notice on Authorization.) The term refugee, used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the targeted assistance program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival, or until they obtain permanent resident alien status, whichever comes first.

Financing, and Related Programs Appropriations Act (Pub. L. 103–306). These funds will be awarded under a separate discretionary grant announcement which will be issued setting forth application requirements and evaluation criteria.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available (i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513).

III. Client and Service Priorities

Targeted assistance funding should be used to assist refugee families to achieve economic independence. To this end, ORR expects States and counties to ensure that a coherent plan of services is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. Each service plan should address a family's needs for both employment-related services and other needed social services. In local jurisdictions that have both targeted assistance and refugee social services programs, one plan of services may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded under the targeted assistance allocations are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. The targeted assistance program, however, is not intended to be limited to cash assistance recipients. TAP-funded services may also be provided to other refugees in need of services, regardless of whether the refugees are receiving cash assistance.

In addition to the statutory requirement that TAP funds be used primarily for the purpose of facilitating refugee employment (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that employable refugees should be placed on jobs as soon as possible after their arrival in the United States (section 412(a)(1)(B)(i) of the INA). Therefore targeted assistance funds must be used primarily for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. Examples of these activities are: job development; job placement; job-related and vocational English; short-term job training specifically related to opportunities in the local economy; on-the-job training; business and employer incentives (such as on-site employee orientation, vocational English training, or bilingual supervisor assistance); and business technical assistance. General or remedial educational activities—such as adult basic education (ABE) or preparation for a high school equivalency or general education diploma (GED)—may be provided within the context of an individual employability plan for a refugee which is intended to result in job placement in less than one year. ORR encourages the continued provision of services after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds cannot be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year. If TAP funds are used for the provision of English language training, such training should be provided concurrently, rather than sequentially, with employment or with other employment-related services, to the maximum extent possible.

A portion of a local area's allocation may be used for services which are not directed toward the achievement of a specific employment objective in less than one year but which are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director of ORR expects States to insure that women have the same opportunities as men to participate in training and instruction. In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to assure availability of day care services in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the targeted assistance program. Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services. For an employed refugee, TAP-funded day care must be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

Targeted assistance services should be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services

to a changing ethnic population. To the maximum extent possible, particularly during a refugee's initial years of resettlement, targeted assistance services should be provided through a refugee-specific service system rather than through a system in which refugees are only one of many client groups being served.

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. States may use a portion of their targeted assistance funds, either through contracts or through the use of State/county staff, to provide technical assistance and organizational training to strengthen the capability of MAAs to provide employment services, particularly in States where MAA capability is weak or undeveloped. If a State chooses to use State employees to provide technical assistance to MAAs, this would be an administrative cost which must be included within the State administrative cost limit of 5% for the targeted assistance program.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice would be contingent upon the completeness of a State's application as described in section IX, below.

IV. [Reserved for Discussion of Comments in Final Notice]

V. Eligible Grantees

The following requirements, which have previously applied to TAP, will continue to apply with respect to FY 1995 awards:

Eligible grantees are those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 1995 targeted assistance awards. The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in this notice, the FY 1995 allocations proposed by the State must be included in the State's application.

Applications submitted in response to this notice are not subject to review by State and areawide clearinghouses under Executive Order 12372, Intergovernmental Review of Federal Programs.

VI. Qualification and Allocation Formulas

A. Qualifying New Counties

ORR does not intend to consider data for the purpose of determining the eligibility of new counties to participate in TAP in FY 1995. The reason is that in FY 1996 we intend to modify the qualifying criteria and allocations formula for targeted assistance. At that time, the eligibility of all counties for participation in TAP will be reviewed against the new qualifying criteria. We do not believe it makes sense to invite new counties to submit evidence of eligibility in FY 1995 when these counties may become ineligible in FY 1996 under the new qualifying criteria.

B. Allocation Formula

The FY 1995 TAP formula allocations are based on the same formula as in FY 1994, updated to reflect arrivals through September 30, 1994.

Under this formula, one portion of the allocation is based on refugee and Cuban/Haitian entrant arrivals during FY 1980–1982; funds for this portion of the formula are allocated on the same proportionate basis among participating counties as in FY 1994. The second portion of the allocation is based on refugee and entrant placements in these counties during calendar year (CY) 1983–September 30, 1994.

For the participating counties, the $25,457,300 which is allocated by formula is apportioned as follows:

a. $7,891,763 or 31%, is allocated on the basis of the formula which has been used for all previous targeted assistance allocations (old formula) and which is based on initial placements during FY 1980–1982 and other factors as described under Formula Used to Date in the FY 1989 TAP notice published in the **Federal Register** on July 3, 1989 (54 FR 27944).

b. $17,565,537 or 69%, is allocated on the basis of arrivals during CY 1983–September 30, 1994 (new formula).

The above percentages are based on the proportion of initial placements in these counties during the two periods: 338,247 refugee arrivals, or 31% of the total number of placements, during the old-formula period; and 768,750 or 69%, during the new-formula period.

The old-formula allocation of $7,891,763 follows the same distribution among counties as in the past.

The new-formula allocation of $17,565,537 is based on the number of initial placements in each county during CY 1983–September 30, 1994. Welfare dependency rates were not used as a factor in this portion of the formula.

C. Allocation Formula for Communities Affected by Recent Cuban/Haitian Arrivals

Proposed allocations for recent Cuban and Haitian refugee and entrant arrivals are based on arrival numbers during the 3-year period beginning October 1, 1991 through September 30, 1994. Allocations are limited to targeted assistance counties with 3 percent or more of the total 3-year Cuban and Haitian arrival population (35,863 arrivals) in the 42 targeted assistance counties. We have established a 3 percent threshold for allocations in

order to target the most impacted communities.

VII. Proposed Allocations

Table 1 lists the participating counties, the number of placements in each county during CY 1983—September 30, 1994, the amount of each county's proposed allocation which is based on the old formula, the amount of each county's allocation which is based on the new formula, and the county's total proposed allocation.

Although Table 1 shows an amount for each county, the Director proposes, in the case of a State which contains more than one qualified county, to continue to permit the State to determine (in accordance with the requirements set forth in this notice) the appropriate allocation of the State's targeted assistance award among the qualified counties in the State. If a State chooses to make allocations which are different from the notice, the State, as in the FY 1994 TAP, would be responsible for determining an appropriate and equitable basis for allocating the funds among the qualified counties in the State and for including in its application a description of this allocation basis, the data to be used, and the allocation proposed for each county.

Table 2 lists the participating counties, the number of Cuban and Haitian refugee and entrant arrivals in each county during FY 1992–FY 1994, each county's percentage of the aggregate total Cuban/Haitian arrivals in the 42 targeted assistance counties, and the proposed allocation amount for each county that has an arrival threshold of 3 percent or above.

Table 3 provides State totals for targeted assistance allocations.

Table 4 indicates the areas that each participating county represents.

TABLE 1.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 1995

County	State	Arrivals Jan. 1983–Sep. 1994 (A)	Portion of proposed FY 1995 allocation under old formula (B)	Portion of proposed FY 1995 allocation under new formula (C)	Total proposed FY 1995 allocation [1] (D)
Alameda	CA	15,342	$196,075	$350,557	$546,632
Contra Costa	CA	4,291	56,063	98,047	154,110
Fresno	CA	14,168	108,273	323,731	432,004
Los Angeles	CA	96,369	990,155	2,201,981	3,192,136
Merced	CA	4,419	132,156	100,972	233,128
Orange	CA	45,042	440,587	1,029,186	1,469,773
Sacramento	CA	17,687	167,821	404,139	571,960
San Diego	CA	25,354	328,383	579,326	907,709
San Francisco	CA	25,207	254,838	575,967	830,805
San Joaquin	CA	9,352	169,342	213,688	383,030
Santa Clara	CA	34,492	327,990	788,124	1,116,114
Stanislaus	CA	3,433	30,639	78,442	109,081
Tulare	CA	5,345	0	122,130	122,130
Denver	CO	9,863	66,147	225,364	291,511
Broward	FL	3,549	109,568	81,093	190,661
Dade	FL	55,469	1,911,490	1,267,438	3,178,928
Hillsboro	FL	3,484	34,433	79,608	114,041
Palm Beach	FL	3,574	45,517	81,664	127,181
Honolulu	HI	3,417	72,838	78,077	150,915
Cook/Kane	IL	36,432	342,151	832,452	1,174,603
Sedgwick	KS	4,038	81,534	92,266	173,800
Orleans	LA	3,902	55,699	89,159	144,858
Montgomery/Prince Georges	MD	8,850	67,761	202,218	269,979
Middlesex	MA	6,357	53,529	145,254	198,783
Suffolk	MA	16,107	122,853	368,037	490,890
Hennepin	MN	10,446	86,311	238,686	324,997
Ramsey	MN	10,263	121,357	234,504	355,861
Jackson	MO	4,320	31,685	98,710	130,395
Essex	NJ	5,925	18,336	135,383	153,719
Hudson	NJ	2,946	122,698	67,315	190,013
Union	NJ	1,810	24,631	41,358	65,989
New York	NY	135,633	273,761	3,099,143	3,372,904
Multnomah	OR	17,069	185,998	390,018	576,016
Philadelphia	PA	18,645	127,317	426,028	553,345
Providence	RI	4,850	90,936	110,820	201,756
Dallas/Tarrant	TX	26,000	0	594,086	594,086
Harris	TX	21,914	149,237	500,723	649,960
Salt Lake	UT	7,209	45,368	164,722	210,090
Arlington	VA	3,183	78,619	72,730	151,349
Fairfax	VA	9,011	94,800	205,897	300,697
KIng/Snohomish	WA	29,264	226,469	668,667	895,136
Pierce	WA	4,719	48,398	107,827	156,225
Total		768,750	7,891,763	17,565,537	25,457,300

[1] Based on arrivals through September 30, 1994.

TABLE 2.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS FOR COMMUNITIES AFFECTED BY RECENT CUBAN AND HAITIAN ARRIVALS: FY 1995

County	State	FY 92–94 total Cuban and Haitian refugee and entrant arrivals	Percent of total arrivals	Amount to be allocated: $19,000,000
				Proposed allocation: 3% arrival threshold
Alameda	CA	6	0.02	
Contra Costa	CA	1	0.00	
Fresno	CA	3	0.01	
Los Angeles	CA	660	1.84	
Merced	CA	0	0.00	
Orange	CA	24	0.07	
Sacramento	CA	13	0.04	
San Diego	CA	191	0.53	
San Francisco	CA	274	0.76	
San Joaquin	CA	2	0.01	
Santa Clara	CA	4	0.01	
Stanislaus	CA	0	0.00	
Tulare	CA	0	0.00	
Denver	CO	56	0.16	
Broward	FL	1973	5.50	$1,247,695
Dade	FL	24,336	67.86	15,389,715
Hillsboro	FL	800	2.23	
Palm Beach	FL	2601	7.25	1,644,833
Honolulu	HI	0	0.00	
Cook/Kane	IL	242	0.67	
Sedgwick	KS	6	0.02	
Orleans	LA	94	0.26	
Montgom./Pr. G.	MD	58	0.16	
Middlesex	MA	84	0.23	
Suffolk	MA	385	1.07	
Hennepin	MN	51	0.14	
Ramsey	MN	0	0.00	
Jackson	MO	310	0.86	
Essex	NJ	368	1.03	
Hudson	NJ	1058	2.95	
Union	NJ	118	0.33	
New York	NY	1135	3.16	717,757
Multnomah	OR	132	0.37	
Philadelphia	PA	156	0.43	
Providence	RI	11	0.03	
Dallas/Tarrant	TX	346	0.96	
Harris	TX	132	0.37	
Salt Lake	UT	0	0.00	
Arlington	VA	12	0.03	
Fairfax	VA	2	0.01	
King/Snohomish	WA	219	0.61	
Pierce	WA	0	0.00	
Total		35,863	100.00	19,000,000

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY STATE: FY 1995

State	FY 1995 allocation [1]
California	$10,068,612
Colorado	291,511
Florida	[2] 21,893,054
Hawaii	150,915
Illinois	1,174,603
Kansas	173,800
Louisiana	144,858
Maryland	269,979
Massachusetts	689,673
Minnesota	680,858
Missouri	130,395
New Jersey	409,721
New York	[2] 4,090,661
Oregon	576,016
Pennsylvania	553,345

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY STATE: FY 1995—Continued

State	FY 1995 allocation [1]
Rhode Island	201,756
Texas	1,244,046
Utah	210,090
Virginia	452,046
Washington	1,051,361
Total	44,457,300

[1] Based on arrivals through September 30, 1994.
[2] The allocations for Florida and New York include $18,282,243 and $717,757 respectively for communities affected by Cuban and Haitian entrants and refugees. This is referred to in the Conference Report on the appropriation: ''to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased.''

TABLE 4.—TARGETED ASSISTANCE AREAS

State	Targeted assistance area[1]	Definition
CA	Alameda	
CA	Contra Costa	
CA	Fresno	
CA	Los Angeles	
CA	Merced	
CA	Orange	
CA	Sacramento	
CA	San Diego	
CA	San Francisco	Marin, San Francisco and San Mateo Counties.
CA	San Joaquin	
CA	Santa Clara	
CA	Stanislaus	
CA	Tulare	
CO	Denver	Adams, Arapahoe, Boulder, Denver and Jefferson Counties.
FL	Broward	
FL	Dade	
FL	Hillsborough	
FL	Palm Beach	
HI	Honolulu	
IL	Cook/Kane	
KS	Sedgwick	
LA	Orleans	Jefferson and Orleans Parishes.
MD	Montgomery/Prince Georges	
MA	Middlesex	
MA	Suffolk	
MN	Hennepin	
MN	Ramsey	
MO	Jackson	Jackson County, Mo and Wyandotte County KS.
NJ	Essex	
NJ	Hudson	
NJ	Union	
NY	New York	Bronx, Kings, New York, Queens, and, Richmond Counties.
OR	Multnomah	Clackamas, Multnomah and Washington Counties, OR and Clark County, WA
PA	Philadelphia	
RI	Providence	
TX	Dallas/Tarrant	
TX	Harris	
UT	Salt Lake	Davis, Salt Lake and Utah Counties.
VA	Arlington	
VA	Fairfax	Fairfax County and the indep. cities of Alexandria, Fairfax and Falls Church.
WA	King/Snohomish	
WA	Pierce	

[1] Consists of named county/counties unless otherwise defined.

VIII. Application and Implementation Process

Under the FY 1995 targeted assistance program, States would apply for and receive grant awards on behalf of qualified counties in the State. A single allocation would be made to each State by ORR on the basis of an approved State application. The State agency would, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

TAP funds will be awarded through a more streamlined grant process similar to that used for the ORR social services formula grant program. An application

and assurances are still required of the States eligible to receive TAP funding. FY 1995 funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. There will be no carryover of unobligated funds into the FY 1996 grant award. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than two years after the end of the Federal fiscal year in which the Department awarded the grant. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of a State's last filed report.

Although additional funding to Florida and New York for communities affected by Cuban and Haitian entrants and refugees whose arrivals in recent years have increased is part of the appropriation amount for targeted assistance, the scope of activities for these additional funds will be administratively determined. Applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately. Similarly, the requirements regarding the 10% portion of the targeted assistance appropriation as well as the supplemental funds to the 10% portion of the targeted assistance appropriation that will be awarded separately have been addressed in the grant announcements for those funds.

IX. Application Requirements

The proposed State application requirements for grants for the FY 1995 targeted assistance formula allocation are as follows:

States that are currently operating under approved management plans for their FY 1994 targeted assistance program and wish to continue to do so for their FY 1995 grants may provide the following in lieu of resubmitting the full currently approved plan:

The State's application for FY 1995 funding shall provide:

A. Assurance that the State's current management plan for the administration of the targeted assistance program, as approved by ORR, will continue to be in full force and effect for the FY 1995 targeted assistance program, subject to any additional assurances or revisions required by this notice which are not reflected in the current plan. Any proposed modifications to the approved plan will be identified in the application and are subject to ORR review and approval. Any proposed changes must address and reference all appropriate portions of the FY 1994 application content requirements to ensure complete incorporation in the State's management plan.

B. Assurance that, for each qualified local area, targeted assistance funds will be used primarily for, but not limited to, services to cash assistance recipients.

C. Assurance that targeted assistance funds will be used primarily for the provision of services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 1995 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

D. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project.

States administering the program locally: States that have administered the program locally or provide direct service to the refugee population (with the concurrence of the county) must submit a program summary to ORR for prior review and approval. The summary must include a description of the proposed services; a justification for the projected allocation for each component including relationship of funds allocated to numbers of clients served, characteristics of clients, duration of training and services, projected outcomes, and cost per placement. In addition, the program component summary must describe any ancillary services or subcomponents such as day care, transportation, or language training.

States with two or more counties receiving targeted assistance funds: As in FY 1994, a State with two or more local areas which qualify for the program may choose to determine respective county allocations. If the State chooses to determine county allocations differently from those set forth in Table 1 of this notice, the State must provide a description of the State's proposed allocation plan and the basis for the proposed allocations. The application must contain a description of the allocation approach, data used in its determination, the calculated allocation amount for each county, and the rationale for the proposed allocations. States are encouraged to revise allocation formulas to assure appropriate funding among eligible counties for the duration of the grant such that targeted assistance activities within the State conclude simultaneously. Where the State chooses not to determine county allocation amounts, the State must provide the allocations which are specified in this notice.

X. Reporting Requirements

States will be required to submit quarterly reports on the outcomes of the targeted assistance program, using the same form which States use for reporting on refugee social services formula grants. This is Schedule A and Schedule C of the ORR–6 Quarterly Performance Report form. ORR is no longer using the ORR–12 form which was originally used to report on the outcomes of the targeted assistance program. ORR is consolidating its reporting requirements. The new reporting form will consolidate social services and targeted assistance performance reporting in one format in order to simplify and coordinate reporting. The new form will be available when reporting on FY 1995 grants begins, which would be at the end of the first quarter of FY 1996.

Dated: April 10, 1995.

Regina Lee,

Deputy Director, Office of Refugee Resettlement.

[FR Doc. 95–9365 Filed 4–14–95; 8:45 am]

BILLING CODE 4184–01–P

Substance Abuse and Mental Health Services Administration

Supplemental Awards to Current High Risk Youth Demonstration Program Grantees

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Availability of supplemental funds for currently funded grantees in the CSAP's Substance Abuse Prevention Demonstration Grant Program for High Risk Populations (specifically, Module A: High Risk Youth; Module B: Female Adolescents; and Module C: Alcohol and Other Drug (AOD)-Related Violence Among High Risk Youth grantees). Excluded are grantees under Module D: Replication of Model Programs for the Prevention of Alcohol, Tobacco, and Other Drug (ATOD) Uses Among High Risk Youth.

SUMMARY: This notice informs the public that CSAP is making available

approximately $1 million in Fiscal Year 1995 for up to 20 supplemental awards to existing grantees in Modules A, B, and C of its Substance Abuse Prevention Demonstration Grant Program for High Risk Populations. The supplemental funding is intended to demonstrate the differential effectiveness of incorporating an HIV/AIDS Prevention curriculum into an ongoing substance abuse prevention program as compared to providing such a curriculum as a stand-alone activity. Youth at risk for ATOD use are also at risk for precocious and unprotected sexual behavior. Because there is so much overlap between the youth at risk for ATOD use and those at risk for HIV/AIDS, as a result of unprotected sexual behavior, it is logical to consider enhancing an ATOD prevention program with an HIV/AIDS prevention curriculum.

Only currently funded grantees in Modules A, B, and C are eligible to apply for supplemental funding. Eligibility is limited to existing grantees because, within the one year time frame of this supplement, available funds can be used more efficiently by existing grantees with established infrastructures, a clientele under care and an evaluation staff and program in place. Module D grantees are excluded because this added project would interfere with their design to replicate a CSAP high risk youth model program.

To apply for a supplemental award, a currently funded CSAP grantee in Module A, B, or C must have more than eighteen months remaining in their current grant as of October 1, 1995. Awards will be limited to one year and cannot exceed a total of $50,000 in direct and indirect costs. The receipt date for applications is May 29, 1995. The application receipt and review and the award process will be handled in an expedited manner. Applications will be reviewed for merit by a panel of expert Federal and non-Federal reviewers, and supplements will be awarded on the basis of merit and availability of funds no later than September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Rose Kittrell, Acting Chief, High Risk Youth Branch, Division of Demonstrations for High Risk Populations, CSAP, Rockwall II, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–0353.

Authority: Awards will be made under the authority of Section 517 of the Public Health Service Act, as amended.

The Catalog of Federal Domestic Assistance (CFDA) number for the High Risk Youth program is 93.144.

Dated: April 12, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–9409 Filed 4–14–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3912]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 6, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Tenants Accounts Receivable.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: Under Section 6(c)(4) of the United States Housing Act of 1937, this information is used to assure sound management practices by the Public Housing Agencies (PHAs). The PHAs prepare and submit the form to the HUD Field Offices and HUD uses it to monitor the effectiveness of rent collections procedures employed by PHAs.

Form Number: HUD–52295.

Respondents: State, Local, or Tribal Governments and Not-For Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–52295	3,200		2		.25		1,600

Total Estimated Burden Hours: 1,600.

Status: Reinstatement, no changes.

Contact: John T. Comerford, HUD, (202) 708–1872; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 6, 1995.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Termination of Multifamily Mortgage Insurance.

Office: Housing.

Description of the Need for the Information and its Proposed Use: HUD–9807 will be used to inform HUD that a mortgage has been paid in full or that a mortgage and mortgagee mutually agree to terminate the contract of mortgage insurance with HUD.

Form Number: HUD–9807.

Respondents: Businesses or Other For-Profit.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9807	500		1		.125		63

Total Estimated Burden Hours: 63.

Status: Extension with changes.

Contact: George Russell, HUD, (202) 708–2022; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 6, 1995.

[FR Doc. 95–9330 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–3888; FR–3886–N–02]

FY 1995 Funding Availability HOPE for Homeownership of Single Family Homes Program (HOPE 3); Notice of Correction of Allocation Amounts

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: FY 1995 funding availability; notice of correction.

SUMMARY: On February 24, 1995, HUD published a notice that announced the availability of approximately $22 million in funding for implementation grants for the HOPE for Homeownership of Single Family Homes Program (HOPE 3). The purpose of this notice is to revise the geographical area allocations set forth in the February 24, 1995 NOFA.

DATES: This notice does not revise the application deadline set forth in the February 24, 1995 NOFA.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3226; (TDD (202) 708–2565). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On February 24, 1995 (60 FR 10446), HUD published a notice that announced the availability of approximately $22 million in funding for implementation grants for the HOPE for Homeownership of Single Family Homes Program (HOPE 3).

Section I.B of the NOFA entitled ''Allocation Amounts,'' sets forth the amount of the $22 million that has been allocated to each of the 10 HUD geographical areas. In that section, HUD advised the amounts allocated to each of the 10 HUD geographical areas is based on a formula described in the final rule (24 CFR 572.210(b)) and based upon 1993 data. HUD further advised that should more recent data become available during the application solicitation period, revised allocations will be published in the **Federal Register**. The purpose of this notice is to revise the geographical area allocations set forth in the February 24, 1995 NOFA and increase the amount available for this competition from $22 million to $23 million based on recent recaptures.

Accordingly, in the NOFA published on February 24, 1995 (60 FR 10446), the following correction is made:

1. On page 10446, in column three, Section I.B. entitled ''Allocation Amounts'' is corrected to read as follows:

B. Allocation Amounts

The purpose of this NOFA is to announce the availability of approximately $23 million in funds for implementation grants, appropriated by the HUD Appropriations Act for Fiscal Year 1995 (Pub. L. 103–327, approved September 28, 1994). The amount made available for implementation grants has been allocated to each of the 10 HUD geographical areas (formerly Regions) by a formula described in the final rule (24 CFR 572.210(b)). However, no former Region has been allocated less than $1.0 million in order to ensure that national geographic diversity is maintained. The formula results in the following allocations based upon 1995 data. (The numbered geographical areas correspond to the number of the former HUD Region; e.g, 1 = former Region I).

1. $1,030,000
2. $2,120,000
3. $2,217,000
4. $4,287,000
5. $3,206,000
6. $2,829,000
7. $1,000,000
8. $1,000,000
9. $4,311,000
10. $1,000,000

Dated: April 6, 1995.

Kenneth C. Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 95–9332 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–29–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3874; FR–3849–N–02]

NOFA for Fiscal Year 1995 for Rental Voucher Program and Rental Certificate Program; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of fund availability (NOFA) for FY 95 and procedures for allocating funds and approving housing agency (HA) applications; correction.

SUMMARY: The Department is publishing corrections to the Notice of Fund Availability (NOFA) published in the **Federal Register** on March 3, 1995, for the Rental Voucher Program and Rental Certificate Program. The amount of funding available for the housing counseling program contained inconsistencies, the specification of a technical correction period for the Mainstream Housing Opportunities component contained inconsistencies, and the names of the counseling agencies to administer the counseling portion of the program contained inaccuracies, resulting from inadvertence. The deadline dates for applications may have been unclear, so this correction also is intended to clarify those dates.

ADDRESSES: Please refer to the March 3, 1995, NOFA publication (60 FR 12036) for the application information and addresses for submitting applications for Section 8 rental assistance funding.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations

Branch, Rental Assistance Division, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On page 12047 of the March 3, 1995, NOFA, the amount stated as available for the Section 8 Counseling program was $150 million (60 FR 12047). On page 12048 of that NOFA, the amount stated to be available was $115 million plus $10 million, for a total of $125 million. The correct amount is $125 million for Section 8 Counseling, which is clarified by removal of the inconsistency in this correction document.

The Department has discovered that five of the housing agencies designated to receive Section 8 Counseling funds for their metropolitan statistical area (MSA) are inappropriate agencies to administer these funds. These changes are being made for such reasons as the agency listed does not administer the Section 8 program for its MSA, or a different entity in the MSA intends to administer the program. In each of the cases, the agencies have been in contact with HUD about the change.

Housing agencies and HUD Offices have indicated that the application deadline dates for the various subprograms are unclear, because the NOFA used the abbreviation ''Do.'' for ''Ditto''. In order to clarify the deadline dates, the Department is republishing the application deadline dates in full. Please note that there have been no revisions to the original application deadline dates.

Accordingly, FR Doc. 95–5184, the NOFA for the Rental Voucher Program and Rental Certificate Program, published in the **Federal Register** on March 3, 1995 (60 FR 12036), is corrected as follows:

1. On page 12037, in columns one and two, the table following the first full paragraph, is corrected to read as follows:

I. NOFA General

* * * * *

(B) Subprogram Funding and Summary of Application Deadline Dates

* * * * *

Subprogram area	Number of units (approximate)	Deadline dates
Fair Share Allocations	35,000	May 2, 1995.
Mainstream Housing	2,500	June 1, 1995.
Homeless Families (Non-competitive Process)	12,000	June 1, 1995.
Persons with AIDS (Non-competitive Process)	3,000	June 1, 1995.
Section 8 Counseling	N/A	May 2, 1995.
FSS Service Coordinators	N/A	May 17, 1995.
Family Unification	2,000	May 17, 1995.

2. On page 12038, in column two, in the third full paragraph, the last sentence is corrected by removing the phrase, ''Mainstream Housing Opportunities,''.

3. On page 12047, in column two, paragraph two, the first sentence is corrected to read as follows:

V. Section 8 Counseling

* * * * *

(B) Purpose and Substantive Description of Section 8 Counseling

(1) General

This NOFA announces the availability of approximately $125 million for HA administrative fees for Section 8 Counseling to facilitate a wide range of housing options for rental voucher and certificate holders and program participants. * * *

4. On pages 12090 and 12091, in Attachment 5, items 15, 20, 23, 51, and 75 are corrected to read as follows:

Metropolitan statistical area	Lead housing agency	Section 8 budget authority
* * *	* * *	*
15. Cleveland-Lorain-Elyria, OH	Lorain Metropolitan Housing Authority	$1,835,000
* * *	* * *	*
20. Milwaukee-Waukesha, WI	Milwaukee County Housing Authority	1,697,000
* * *	* * *	*
23. Buffalo-Niagara Falls, NY	City of Buffalo/Rental Assistance Corp	1,377,000
* * *	* * *	*
51. Louisville, KY-IN	Jefferson County Housing Authority	534,000
* * *	* * *	*
75. Jackson, MS	Mississippi Region No. 6 Housing Auth	242,000
* * *	* * *	*

Dated: April 11, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–9331 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–57773]

Opening of Public Lands: Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document and Order Providing for Opening of Land, Nevada.

SUMMARY: This notice identifies Federal and non-Federal lands involved in a recently completed exchange transaction, Phase 2 of N–57773. The mineral estates in the Federal lands were conveyed simultaneously with the surface estate, except for the oil, gas, sodium and potassium which were reserved to the United States. The mineral estates owned by the proponent in the non-Federal lands were conveyed to the United States simultaneously with the surface estate.

EFFECTIVE DATE: May 17, 1995.

FOR FURTHER INFORMATION CONTACT: Anna Wharton, Realty Specialist, Stateline Resource area, BLM Las Vegas District Office, 4765 Vegas Drive, Las Vegas, NV 89108, Telephone (702) 647–5087.

SUPPLEMENTARY INFORMATION: On February 8, 1995, the United States issued Patent No. 27–95–0009 to Olympic AWH Joint Venture, a Nevada General Partnership, for limited purposes, for the following described lands, containing 225 acres, pursuant to sections 206 and 209 of the Act of October 21, 1976 (43 U.S.C. 1716, 1719):

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,

Sec. 34, S½NE¼NE¼NW¼, S½NE¼NW¼, S½NE¼NW¼NW¼, W½NW¼NW¼, SE¼NW¼NW¼, N½SW¼NW¼, N½S½SW¼NW¼, NE¼SE¼NW¼, N½NW¼SE¼NW¼, S½SE¼SE¼SW¼, S½N½NE¼SE¼, S½S½NE¼SE¼, N½NE¼NW¼SE¼, W½NW¼SE¼, SE¼NW¼SE¼, N½N½SW¼SE¼, S½SW¼SW¼SE¼, SE¼SW¼SE¼, N½SE¼SE¼, S½SW¼SE¼SE¼, SE¼SE¼SE¼.

In exchange for the above described lands, the United States acquired the following lands, containing 1731.01 acres, from Olympic AWH Joint Venture, a Nevada General Partnership, for limited purposes:

Mount Diablo Meridian, Nevada

T. 21 S., R. 59 E.,

Sec. 6, All that part of Government lot 5, Clark County, Nevada, more particularly described as follows:

Commencing at the West One-Quarter (W¼) corner of said section 6; Thence North 0°06′25″ East, a distance of 310.01 feet to the true point of beginning; Thence continuing North 00°06′25″ East, a distance of 1012.35 feet; Thence North 89°36′31″ East, a distance of 842.44 feet; Thence South 00°18′05″ East, a distance of 370.00 feet; Thence South 09°03′37″ East, a distance of 50.58 feet; Thence North 89°36′31″ East, a distance of 412.30 feet; Thence South 00°18′05″ East, a distance of 947.45 feet to a point on a 20.00 foot radius curve to the right, concave Northwesterly; Thence Southwesterly along said curve from a tangent line bearing South 00°18′05″ East, an arc distance of 33.06 feet, through a central angle of 94°43′11″; Thence North 85°34′55″ West, a distance of 486.92 feet; Thence North 00°06′25″ East, a distance of 61.17 feet; Thence North 85°34′55″ West, a distance of 46.50 feet; Thence North 00°06′25″ East, a distance of 208.72 feet; Thence North 85°34′55″ West, a distance of 720.76 feet to the true point of beginning.

T. 15 S., R. 68 E.,

Sec. 24, E½NE¼, N½NE¼SE¼,

Sec. 24, SE¼SW¼NE¼SE¼ excepting therefrom the southerly thirty (30) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,

Sec. 24, S½SE¼NE¼SE¼ excepting therefrom the southerly thirty (30) feet and the easterly fifty (50) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,

Sec. 24, N½NE¼SE¼SE¼ excepting therefrom all mineral rights as conveyed to Kathy J. Gelber, an unmarried woman by deed recorded June 28, 1983 in Book 1762 as Document No. 1721051, Official Records,

Sec. 24, S½N½SE¼SE¼ excepting therefrom the westerly thirty (30) feet, southerly thirty (30) feet and easterly fifty (50) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,

Sec. 24, N½S½NE¼SE¼, N½NW¼SE¼SE¼, N½SW¼SE¼SE¼, S½SE¼SE¼SE¼;

Sec. 25, S½N½NE¼NE¼, N½NW¼SE¼NE¼, SE¼NW¼SE¼NE¼, N½NE¼NE¼SE¼, S½SE¼NE¼SE¼, S½NE¼SE¼SE¼, SE¼SE¼SE¼;

Sec. 35, NE¼SE¼, W½SW¼SE¼, E½SW¼SE¼;

Sec. 36, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, NW¼SW¼, SE¼SW¼.

T. 16 S., R. 68 E.,

Sec. 1, lots 3, 4, SW¼NW¼, N½SE¼NW¼, W½SW¼;

Sec. 12, NW¼NW¼, N½SW¼NW¼.

T. 14 S., R. 69 E.,

Sec. 32, SW¼SE¼.

T. 15 S., R. 69 E.,

Sec. 30, S½N½ of lot 1 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,

Sec. 30, W½N½S½ of lot 1 (more properly described as the N½SW¼ of lot 1) as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,

Sec. 30, S½S½ of lot 1 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County; excepting therefrom the westerly fifty (50) feet and the southerly thirty (30) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,

Sec. 30, lot 2 excepting therefrom the southerly forty (40) feet, the westerly fifty (50) feet of the S½S½SW¼NW¼ of said section and the westerly fifty (50) feet and the southerly thirty (30) feet of the S½N½SW¼NW¼ of said section, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,

Sec. 30, lot 3 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,

Sec. 30, N½N½ of lot 4 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,

Sec. 30, S½NW¼ of lot 4 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,

Sec. 30, NE¼NE¼, NW¼NE¼, SW¼NE¼,

Sec. 30, S½N½NE¼NW¼ excepting therefrom that portion of said land lying

below the mean high water mark of the Virgin River,
Sec. 30, NE¼SE¼, NW¼SE¼.
T. 15 S., R. 69 E.,
Sec. 31, N½NE¼ of lot 1,
Sec. 31, S½S½ of lot 2 excepting therefrom all mineral rights in and to the S½SW¼SW¼NW¼ of said section 31, as conveyed to Kathy J. Gelber, an unmarried woman, by deed recorded June 28, 1983 in Book 1762 as Instrument No. 1721051, Official Records,
Sec. 31, NE¼NW¼, NE¼SE¼, W½SE¼, SE¼SE¼.
T. 16 S., R. 69 E.,
Sec. 6, lots 1, 2, S½NE¼, E½SW¼, SE¼.

Title to the non-Federal lands was accepted on February 8, 1995. The value of the Federal lands exceeded the value of the non-Federal lands by $13,476.00 (.41% of the value of the selected lands). An equalization payment in that amount was made to the United States by the exchange proponent.

The purpose of the exchange was to acquire non-Federal lands with high value for recreation, and wildlife and riparian habitat. The 30.29 acres of non-Federal lands previously described in T. 21 S., R. 59 E., MDM, lie within the Red Rock National Conservation Area (RRNCA). In accordance with Public Law 101–621, dated November 16, 1990, RRNCA lands are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, and all amendments thereto.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record and the requirements of applicable law. All valid applications received prior to 10 a.m. on May 17, 1995, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will be open to location under the mining laws. Appropriation of the land 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.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will also be open to applications/offers under the mineral leasing laws, the material sale laws, and the Geothermal Steam Act.

Dated: April 7, 1995.

Michael F. Dwyer,

District Manager.

[FR Doc. 95–9319 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–M

[NV–030–5700–77; N–49077]

Notice of Realty Action: Amendment to Airport Lease; Lyon County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On October 19, 1989 certain public lands within Lyon County, Nevada were leased to Leland B. Hill for public airport purposes, pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214). Portions of the airport facilities subsequently constructed were inadvertently located on public lands outside the lease boundaries. The lessee has requested that the lease be amended to include all public lands currently occupied by airport facilities. These lands are described as follows:

Beginning at the South quarter corner of section 36, Township 20 North, Range 24 East, MDB&M, Lyon County, Nevada, thence N89°25′26″W a distance of 366.60′ along the southern boundary of said section 36. Thence N0°34′34″W for 1140.55′ to the true point of beginning, Corner No. 1.
From Corner No. 1, by metes and bounds,
N17°06′18″W for 4038.75′, to Corner No. 2;
S65°51′05″W for 1350′, to Corner No. 3A;
N 1°49′18″W for 75′, to Corner No. 6A;
N65°51′05″E for 1355′, to Corner No. 7;
N17°06′18″W for 227.68′, to Corner No. 8;
S89°44′15″E for 209.55′, to Corner No. 9;
S17°06′18″E for 909.03′, to Corner No. 10;
N72°53′42″E for 288.48′, to Corner No. 11;
S16°33′14″E for 600.03′, to Corner No. 12;
S72°53′42″W for 282.71′, to Corner No. 13;
S17°06′18″E for 2770.41′, to Corner No. 14;
S72°53′42″W for 200.00′, to the point of beginning.

The area described contains approximately 27.03 acres.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, Bureau of Land Management, Carson City District Office, 1535 Hot Springs Road, Ste. 300, Carson City, Nevada 89706, (702) 885–6000.

DATES: Upon publication of this notice in the **Federal Register**, those public lands described above, not previously segregated, will become segregated from appropriation under the public land and mining laws, but not the mineral leasing laws. On or before June 1, 1995, interested parties may submit comments to James M. Phillips, Lahontan Resource Area Manager, Bureau of Land Management, Carson City District Office.

Dated this 5th day of April, 1995.

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 95–9318 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–P

[NV–942–05–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION:

1. The supplemental plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on February 17, 1995:

The supplemental plat showing amended lottings in section 7, T. 18 S., R. 64 E., Mount Diablo Meridian, Nevada, was accepted on February 14, 1995.

This plat was prepared at the request of Silver State Disposal and Clark County.

2. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on May 17, 1995:

The plat, in 2 sheets, representing the dependent resurvey of the east boundary of T. 7 S., R. 41 E., and a portion of the east boundary of T. 6 S., R. 41 E., and the survey of the south, east and north boundaries and a portion of the subdivisional lines, and the subdivision of sections 3 and 10, and the retracement and remonumentation of certain corners of Mineral Survey Nos. 3967 and 4079, T. 7 S., R. 41½ E., Mount Diablo Meridian, Nevada, Group No. 709, was accepted on March 8, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The plat, in two sheets, representing the dependent resurvey of portions of the south

boundary, east boundary, subdivisional lines, and 1873 meander lines of Summit Lake, and the subdivision of section 35, and the survey of the 1988–1991 meander lines and an informative traverse of the 1988–1991 bank of a portion of Summit Lake, T. 42 N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat, in three sheets, representing the dependent resurvey of portions of the south boundary, subdivisional lines, 1873 meander lines of Summit Lake, and the Camp McGarry Military Reservation Line, and the subdivision of certain sections, and the survey of the 1988–1991 meander lines of a portion of Summit Lake, T. 42 N., R. 26 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat representing the dependent resurvey of a portion of the west boundary of T. 41 N., R. 26 E.; and the survey of a portion of the south boundary of T. 41½ N. R. 25 E.; and the survey of a portion of the subdivisional lines of T. 41 N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat representing the survey of a portion of the subdivisional lines of T. 41½ N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs and the Bureau of Land Management.

3. Subject to valid existing rights the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those portions of the lands listed under item 2 that are original survey are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to May 17, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: March 31, 1995.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–9320 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–P

Bureau of Reclamation

Environmental Impact Statement on the City of San Jose's South Bay Water Recycling Program, San Jose, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 as amended, the Bureau of Reclamation (Reclamation) proposes to prepare an environmental impact statement (EIS) on the City of San Jose's (City) proposed construction of facilities to support the South Bay Water Recycling Program (SBWRP). The EIS will be based on a 1992 environmental impact report (EIR) prepared by the City. The SBWRP would divert treated freshwater effluent from South San Francisco Bay through a water reclamation program. This project would include construction of pump stations and recycled distribution pipelines.

DATES: Written comments on the scope of alternatives and impacts to be considered should be sent to Reclamation by May 17, 1995. Reclamation estimates that the EIS will be available for public review in late spring of 1995.

ADDRESSES: Written comments on the project scope should be sent to Mona Jefferies-Soniea, Bureau of Reclamation, Mid-Pacific Region, Division of Resources Management Planning, 2800 Cottage Way, MP–720, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Ms. Jefferies-Soniea at the above address; telephone (916) 979–2297.

SUPPLEMENTARY INFORMATION: The SBWRP, formerly known as the San Jose Nonpotable Reclamation Project, was developed in response to an order from the Environmental Protection Agency (EPA) and San Francisco Regional Water Quality Control Board in order to re-establish salinity levels of the salt water marsh in the southern tip of San Francisco Bay. In addition to protecting the South Bay habitat, the program also develops nonpotable water supply for the Santa Clara Valley, which can be used in place of potable water for appropriate purposes. Funding will come from loans from the State Water Resources Control Board and EPA, a grant from Reclamation, and local funding.

The SBWRP would be implemented in two phases: Phase I would consist of installing facilities to supply up to 9,000 acre-feet/year of nonpotable water for landscape irrigation, agriculture and industrial uses. Phase II would consist of installing facilities to supply an additional up to 27,000 acre-feet/year for either nonpotable or potable use.

The City completed a final EIR for the SBWRP in November 1992. At that time, Reclamation had not been involved and therefore no compliance with NEPA was needed. Because federal funding is now being used to support the SBWRP, compliance with NEPA is required at this time. The EIS will be based on this final EIR. The EIR analyzed Phase I in detail and analyzed Phase II programmatically. Supplemental local and Federal environmental compliance will be done later this year to analyze Phase II in detail.

An EIS scoping meeting is not planned because of scoping already done by the City. The City sent out a notice of preparation of their EIR to the public in 1992 and held a public scoping meeting on February 19, 1992.

The proposed action (Phase I) is to construct pump stations, storage tanks, 48.5 miles of 6- to 54-inch diameter pipeline and appurtenant facilities in the cities of San Jose, Santa Clara, and Milpitas. There would also be minor modifications of the existing San Jose/Santa Clara Water Pollution Control Plant to provide additional chlorination.

Alternatives to the proposed action include:

- Pipeline Alignment Alternative, to avoid construction of pipelines near residences.
- Flow Allocation Alternative, which would allocate most of the reclaimed water for potable uses. The water would be used for groundwater recharge, mainly using percolation basins.
- Habitat Enhancement Alternative, to also supply water to riparian restoration areas along creeks and rivers in the study area, as well as for potable and other nonpotable purposes.
- No Action.

Dated: April 7, 1995.

Roger K. Patterson,

Regional Director.

[FR Doc. 95–9340 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–94–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application, document availability, and public comment period.

The following applicant has applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.):*

Applicant: Assistant Regional Director, Ecological Services, Region 3, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

Permit No. PRT–697830

The applicant requests an amendment to their current permit to take the following species for scientific purposes and the enhancement of propagation or survival in accordance with recovery outlines, recovery plans, listing, or other Service work for those species.

1. Clubshell (*Pleurobema clava*)
2. Cracking pearly mussel (*Hemistena (=Lastena) lata*)
3. Ring pink (*=golf stick pearly*) mussel (*Obovaria retusa*)
4. Purple cat's paw pearly mussel (*Epioblasma (=Dysnomia) obliquata obliquata (=E. sulcata sulcata*))
5. Northern riffleshell (*Epioblasma torulosa rangiana*)
6. Hungerford's crawling water beetle (*Brychius hungerfordi*)
7. Hine's emerald dragonfly (*Somatochlora hineana*)

Documents and other information submitted with these applications are available to the public during normal business hours (7:30 a.m.—4 p.m.) in Room 650, Bishop Henry Whipple Federal Building, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Regional Director, U.S. Fish and Wildlife Service, Region 3, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Please refer to PRT–697830 when submitting comments.

Dated: April 10, 1995.

William F. Hartwig,

Regional Director, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95–9339 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–55–M

Record of Decision for a Final Supplemental Programmatic Environmental Impact Statement (SPEIS) on the Federal Aid in Sport Fish Restoration and Federal Aid in Wildlife Restoration Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service (Service) has selected the No Change Alternative for its operation of the Sport Fish Restoration and Wildlife Restoration Programs into the next century. This decision was based on the Service analysis of the program contained in a SPEIS to augment the Program Environmental Impact Statement (EIS) published in 1978 and comments received from the public regarding that SPEIS.

ADDRESSES: Columbus H. Brown, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Arlington Square Building, Room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Columbus H. Brown, Chief, Division of Federal Aid, Telephone (703) 358–2156.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aid in Sport Fish and Wildlife Restoration Program was initiated with the passage of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) in 1937. This Act has been commonly referred to as the Pittman-Robertson Act in honor of the sponsors of the Act. The purpose of the Act was to provide a stable and secure source of funding to the States for the management, conservation, and enhancement of wildlife species. The Act was passed in response to dramatic declines in the populations of a number of game species and was originally intended as a mechanism to restore those populations to healthy levels. Funding for the Wildlife Restoration Program is derived from Federal excise taxes on sporting arms, ammunition, and certain archery equipment.

The Wildlife Restoration Act authorizes the Service to deduct a maximum of 8 percent of the funds for administration of the Act and for carrying out the Migratory Bird Conservation Act. After making administrative deductions, the remaining funds are apportioned to the States based on the geographic area, number of hunting license holders, and State population. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands, receive a fixed percentage of the funds apportioned. Funds apportioned under the Wildlife Restoration Program for fiscal year 1994 came to a total of $182,081,117.

While the Wildlife Restoration Act was specifically directed toward developing funds for wildlife management, it served as the pattern for a similar funding mechanism directed at fisheries management. In 1950, the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*), commonly called the Dingell-Johnson Act was passed. The legislation was further augmented by the Wallop-Breaux amendment of 1984, providing additional funds. The Sport Fish Restoration Program provides stable funding for restoration, conservation, management and enhancement of sport fish, and the provision of benefits from these resources to the public; improved boating access; and aquatic resource education. Funds provided by this Act are derived from Federal excise taxes on fishing tackle and related equipment, federal taxes on gasoline used in motorboats, duties on imported boats, and fishing tackle, and interest earned on investment of these funds.

Sport Fish Restoration Program funds are apportioned based on the number of fishing license holders and the geographic area of each State. Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the District of Columbia receive a fixed percentage of the funds apportioned. The Service may deduct up to 6 percent for administration of the Act. State funds apportioned under the Sport Fish Restoration program for fiscal year 1994 came to a total of $174,628,718.

The mentioned Act form the basis of the Federal Aid in Sport Fish and Wildlife Restoration Program, or the Federal Aid Program (Program). The Program is administered by the Service's Division of Federal Aid (Division). The Division's mission is to strengthen the ability of State and Territorial fish and wildlife agencies to restore and manage fish and wildlife resources to meet effectively the consumptive and nonconsumptive needs of the public for fish and wildlife resources.

Alternatives Considered

Five alternatives, listed below, were considered in the SPEIS. Each alternative was developed by Service, State, and public inputs and focuses on the needs and direction of the Federal Aid Program into the next century. Under each of these alternatives, the basic core of Program activities would continue as it is at present with gradual changes in emphasis in response to public interest and need.

Alternative 1—No Change to the Existing Program Direction. Continue current administration and activities.

Alternative 2—Emphasis on National and Regional Priorities. Encourage States to consider funding projects contributing to national or regional

priorities that are cooperatively identified by the States and the Service in consultation with the public.

Alternative 3—Emphasis on Additional Funding for Biodiversity and Watchable Wildlife Projects. States will be provided an expanded funding base for use on biodiversity and watchable wildlife enhancement projects.

Alternative 4—Increase Administrative Flexibility of States. Increased responsiveness to State needs, such as administrative flexibility, aquatic education expansion, and adult education for wildlife programs.

Alternative 5—Eliminate Most Service Overview of States. Propose legislation and policy changes to eliminate most Service overview of State projects including project approval. States would be provided program rules, general guidance, and apportionment of funds. States would provide reports of accomplishments and would be periodically monitored by the Service.

Decision

Alternative 1, ''No Change to the Existing Program Direction'' was selected by the Service for future administration of the Program. This selection was made in response to overwhelming support of the existing program by respondents to the draft document issued in November 1993. The majority of comments received during the comment period expressed the opinions that the Program was working well and urged the Service not to make changes. Most persons commented that States are in the best position to assess the needs of citizens for fish and wildlife resources and that the Federal Government should not get more involved in establishing priorities for State projects. The Service is convinced that the existing Program is effectively meeting the needs of hunters, anglers, boaters, and other users of the nation's fish and wildlife resources and does not plan to change the way the Program is administered.

Significant Issues Raised

After the final SPEIS was distributed to the public in December 1994, several parties asked that the Service adopt a more flexible policy relating to projects to educate State employees. Currently, employees that are actively working on Federally funded projects may be trained using Program funds, but training of employees not working on active projects may not be funded. The Service intends to explore the need for this change with the States independently of this Record of Decision.

No other significant issues were raised during review of the Final SPEIS. Because the Final SPEIS adopted the preferred alternative suggested by most public comments, the few public comments on the final draft were supportive.

Copies Are Available

Copies of the Final SPEIS are available from the U.S. Fish and Wildlife Service, Division of Federal Aid, Arlington Square Building, MS–140, 4401 North Fairfax Drive, Arlington, Virginia, 22203, during normal working hours. Telephone (703) 358–2156.

Dated: March 22, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 95–9414 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: Wednesday, April 19, 1995; 1:30 p.m. until 4:30 p.m.

ADDRESSES: Aldie Mansion, 85 Old Dublin Pike, Doylestown, PA 18901.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Acting Executive Director, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: April 6, 1995.

Donald M. Bernhard,

Chairman, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 95–9338 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Motorola, Inc. and Nextel Communications, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States of America* v. *Motorola, Inc. and Nextel Communications, Inc.*, Civil Action No. 1:94CV02331, filed in the United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3233 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Response to Public Comments to the Proposed Final Judgment

[Case No. 1:94CV02331]

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h) (''APPA''), the United States of America hereby files its Response to Public Comments to the proposed Final Judgment in this civil antitrust proceeding. The United States has reviewed the comments on the proposed Final Judgment and remains convinced that entry of the proposed Final Judgment is in the public interest.

I. Summary of Proceedings

This proceeding relates to the proposed consolidation of the trunked specialized mobile radio (''SMR'') businesses of Nextel Communications, Inc. (''Nextel'') and Motorola, Inc. (''Motorola''), the two largest providers of those services in the United States. This transaction is part of Nextel's

seven-year effort to accumulate sufficient radio spectrum to establish a digital wireless network in competition with the cellular telephone companies.

Trunked SMR service is a type of radio service used by contractors, service companies, delivery services and other businesses that need to communicate with fleets of vehicles on a one-to-one or one-to-many basis. It is provided pursuant to licenses granted by the Federal Communications Commission (''FCC'') in the 800 MHz and 900 MHz spectrum bands. A limited number of licenses are available for these services.

In the last seven years, Nextel has entered into agreements to purchase or manage the assets of dozens of companies holding licenses to provide SMR service in the 800 MHz band, making it the largest holder of 800 MHz SMR spectrum, as well as the primary supplier of SMR service, in the United States.[1] Nextel's numerous acquisitions are part of a plan to replace the currently deployed analog technologies used in those systems with a new digital technology developed by Motorola. Deployment of digital technology and the reconfiguration of radio transmitters in a cellular-like pattern will greatly increase the number of customers that may be served and allow Nextel to offer a greater variety of services including, in addition to dispatch service, data and wireless telephone service. Nextel also owns and manages a substantial number of 900 MHz SMR channels in major cities around the country. However, the new Motorola technology cannot be deployed on them.

Motorola is the second largest holder of 800 MHz SMR spectrum and Nextel's primary competitor in the provision of dispatch services in many cities around the country. Motorola also owns and manages a substantial number of 900 MHz SMR channels in major cities, including many reached by Nextel's 800 MHz and 900 MHz SMR services. By an agreement dated August 4, 1994, Motorola agreed to sell Nextel its SMR business in the 800 MHz band. The agreement also provided that Nextel would manage Motorola's 900 MHz SMR business for three years, subject to renewal for subsequent periods of two years.[2]

The United States commenced this action on October 27, 1994 alleging that Nextel's control of virtually all available options for customers seeking SMR services, i.e., simultaneous control, of virtually all channels on which such services are provided in both the 800 MHz and 900 MHz bands in fifteen (15) major cities in the United States would substantially lessen competition in these markets.[3] On the same date, the United States submitted, with the consent of the defendants, a proposed Final Judgment that requires defendants to divest certain SMR assets and licenses and prevents defendants from reacquiring the specified assets and licenses, or acquiring comparable assets and licenses, in the fifteen (15) cities. With the exception of Atlanta, Georgia, the contemplated relief is limited to 900 MHz channels.

The relief provided in the proposed Final Judgment is intended to prevent any lessening of competition in the provision of trunked SMR service in a manner consistent with the efforts of the FCC to facilitate the creation of a new digital wireless telephone service competitor that would significantly benefit the public.[4] Recognizing that Nextel may require additional 800 MHz spectrum to compete, the FCC has permitted Nextel to be assigned a substantial number of 800 MHz SMR licenses and has initiated proceedings aimed at promoting the aggregation of spectrum to facilitate the development of digital SMR networks.[5] In order to avoid any interference with these efforts by the FCC, the relief required by the Final Judgment is, with the exception of Atlanta, limited to 900 MHz spectrum. Since the Motorola technology cannot be deployed on SMR channels in 900 MHz band, the possible benefits from Nextel's creation of a digital wireless network are not put at risk by requiring Nextel to relinquish control of 900 MHz SMR channels. Conversely, if Nextel is permitted to own and manage the 900 MHz SMR channels, Nextel would gain control of the most widely available alternative to dispatch services provided on the 800 MHz band and significantly increase its ability to increase the prices of dispatch services.

Comments on the proposed Final Judgment were received from a group composed of Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accucomm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Communications Center, Inc., and Leflore Communications, Inc. (collectively ''the Clark Group'');[6] from Communications Center, Inc. (''CCI''); from General Electric Mobile Communications Dealer Board of Directors (''GE''); and from Gerard and Harold Pick (''Pick'').[7] These commenters are all operators of SMR systems and are competitors of Nextel or Motorola in various regions of the United States. The primary concern in the comments is that Nextel's acquisition of such a large percentage of 800 MHz SMR spectrum will prevent competitors from being able to expand their systems and give Nextel the power to raise prices and reduce the quality of service to its customers. Generally they request that the Department withdraw its consent.

As explained below, the United States concluded that the divestiture and release of 900 MHz spectrum by the defendants would address the principal anticompetitive effects of the transactions, and that a requirement that Nextel divest or release 800 MHz channels would unnecessarily impede the efforts of Nextel to deploy its digital technology and compete in the provision of wireless telephone services. If such additional action was required, Nextel's planned wireless services would serve fewer people and the anticipated downward pressure on cellular service rates would diminish or not materialize.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. 16(b). In this case, the sixty-day comment period commenced on November 8, 1994, and was due to terminate on January 9, 1996. On that date, the United States filed a motion

[1] Through its agreements to acquire OneComm Corporation and Dial Page, Inc., which had been accumulating 800 MHz spectrum in other regions, Nextel established a nationwide presence and now owns SMR spectrum in most areas of the continental United States.

[2] Motorola is to receive twenty-four percent of Nextel's voting securities. Agreements entered the same day commit Nextel to purchase Motorola equipment for its 800 MHz SMR business.

[3] The cities identified in the complaint and CIS were Atlanta, Georgia; Boston, Massachusetts; Chicago, Illinois; Dallas and Houston, Texas; Denver, Colorado; Detroit, Michigan; Los Angeles and San Francisco, California; Miami and Orlando, Florida; New York, New York; Philadelphia, Pennsylvania; Seattle, Washington; and Washington, DC.

[4] In the Matter of Applications of Nextel Communications, Inc., FCC 95–263 at 13–14 (February 17, 1995).

[5] *See* Amendment of Part 90 to Facilitate Development of SMR Systems in the 800 MHz Frequency Band, FCC 94–271 (November 4, 1994) (Further Notice of Proposed Rulemaking).

[6] The Clark Group filed an initial comment on December 14, 1994, consisting of a copy of it filing with the FCC on the Nextel—OneComm transaction. On January 9, 1995, it filed additional comments. Its numerous pages of exhibits, consisting of, among other things channel ownership tables, have been submitted to the Court, but have not been published. Its December 14, 1994, and January 9, 1995, filings are Attachments A and B, respectively.

[7] The CCI, GE and Pick comments are Attachments C, D and E, respectively.

with the Court on behalf of OneComm Corporation requesting that the comment period be extended until January 17, 1995. On January 17, 1995, OneComm notified the United States that it would not, in fact, file a comment.[8] The United States has received comments from four persons. Upon publication of the comments and this response in the **Federal Register**, pursuant to 15 U.S.C. 16(d) of the APPA, the procedures required by the APPA prior to entry of the proposed Final Judgment will be completed. The United States will move the Court for entry of the proposed Final Judgment after publication of the comments and this response, and the Court may then enter the proposed Final Judgment.

III. Standard of Review

Under the APPA, the primary responsibility for enforcing the antitrust laws and protecting the public interest in competitive markets rests with the Department of Justice.[9] In carrying out its responsibilities, the Department has very broad discretion in prosecuting alleged antitrust violations and determining appropriate relief for the settlement of cases.[10] Before entering a proposed consent decree, the Court must determine that the decree is in the public interest, 15 U.S.C. 16(e),[11] but that test is limited to ensuring that the government has met its public interest responsibilities, that is, determining that the proposed Final Judgment falls within the range of the government's antitrust enforcement discretion. The Ninth Circuit Court of Appeals has explained these respective obligations as follows:

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General * * *. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' * * * More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decrees.[12]

Indeed, the courts repeatedly have held that the purpose of their review of proposed consent decrees is not to determine ''whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder.'' [13] or whether this is the remedy ''the court might have imposed had the matter been litigated.'' [14] Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its response to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also give appropriate recognition * * * to the fact that every consent judgment normally embodies a compromise, and that the parties each give up something which they might have won had they proceeded to trial.[15]

The Court may reject the agreement of the parties as to how the public interest is best served only if it has ''exceptional confidence that adverse antitrust consequences will result.'' *United States v. Western Electric Co.,* 993 F.2d 1572, 1577 (D.C. Cir.), *cert. denied,* 114 S.Ct. 487 (1993).

In this case, the United States carefully considered the matters that are now being raised in the comments when it formulated its position with respect to the transaction. We concluded, for reasons discussed below and in the Competitive Impact Statement, that the public would be best served by the remedial action set forth in the proposed Final Judgment. If the Court finds that the United States' action represented a reasonable exercise of its antitrust enforcement responsibility and prosecutorial discretion, it may enter the proposed Final Judgment as soon as compliance with the APPA is completed by publication of the comments and Response in the **Federal Register.**

IV. Response to Public Comments

In its comments, the Clark Group challenges the Competitive Impact Statement insofar as it explains the proposed Final Judgment is in the public interest. In support of its view, the Clark Group cites *United States* v. *Western Electric Co.,* 552 F.Supp. 131 (D.C.D.C. 1982) for the proposition that a proposed Final Judgment is inadequate if it does not render impotent the monopoly power found to violate the antitrust laws. As explained below, the Clark Group's market definition is too narrowly drawn and improperly fails to recognize the potential of these transactions to increase competition in wireless services.

A. Benefits from New Wireless Services

The various comments on the proposed Final Judgment explicitly and implicitly question whether Nextel's consolidation of 800 MHz SMR spectrum, now being used to provide analog dispatch services to small businesses, and its deployment of a new technology on that spectrum to provide dispatch, wireless telephone and data services, is really in the public interest. By granting numerous requests that SMR licenses be transferred to companies consolidating spectrum, granting wide area waivers, relaxing construction schedules, and other actions, the FCC has indicated that it believes that the public would benefit from the deployment of digital technology on 800 MHz SMR spectrum.[16] Those decisions were an exercise of policy judgment by an expert agency within its area of expertise and jurisdiction. We do not believe that it would be appropriate to revisit those decisions in the context of this antitrust proceeding.[17]

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[8] The OneComm filing is Attachment F.

[9] *United States v. Waste Management, Inc.,* 1985–2 Trade Cas. (CCH) ¶ 66,651 at page 63,045 (D.D.C. 1985).

[10] *United States v. Mid-American Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508 at page 71,980 (W.D. Mo. 1977), citing *Sam Fox Publishing Co. v. United States,* 366 U.S. 683, 689, (1961) and *Swift & Co. v. United States,* 276 U.S. 311, 331–32 (1928).

[11] This determination can be properly made on the basis of the Competitive Impact Statement and this Response. The procedures of 15 U.S.C. § 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the Court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9 *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 6535, 6538.

[12] *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981) (citations omitted). See also *United States v. Western Electric Co.,* 900 F.2d 283, 309 (D.D. Cir.) cert denied, 498 U.S. 911 (1990).

[13] *United States v. National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978), quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975).

[14] *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

[15] *United States v. Mid-American Dairymen, Inc., supra,* ¶ 61,508 at 71,980.

[16] In February 1991, the FCC authorized Nextel, then called Fleet Call, to construct digital mobile networks in six cities, finding that doing so would ''generally encourage the larger and more efficient use of radio in the public interest.'' In Re Request of Fleet Call, Inc. for Waiver and Other Relief, 6 FCC Rcd 1533 (1991). Subsequently, the FCC granted additional waivers to Nextel and other companies authorizing the construction of such systems and facilitating their efforts to construct their systems. See, e.g., PR Docket No. 92–210, FCC 93–256, (May 13, 1993) (giving companies proposing digital wide-area systems five years to place their systems in operation).

[17] We also note that insofar as the commenters question the wisdom of the FCC's decision, they do so in an effort to protect their interests as providers of analog SMR services and competitors of Nextel. The antitrust laws were meant to protect competition, not competitors. *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.,* 429 U.S. 477, 488 (1977). The commenters seek to limit the 800 MHz SMR spectrum that Nextel may own or control and use in the provision of its proposed digital wireless services. The FCC has determined, however, that if

Section 16(e)(2) of the APPA permits the Court to consider, determining whether the judgment is in the public interest, ''the impact of entry of such judgment upon the public generally.'' Thus, public policy considerations other than the competitive impact of the judgment on the markets alleged, such as deference to the FCC's judgment on possible benefits to the wireless market, may be considered.[18]

The FCC's decisions, however, provide no basis for allowing Nextel to acquire control of 900 MHz spectrum in the relevant geographic markets, in addition to the substantial portion of 800 MHz spectrum that it intends to use for its digital network. The complaint and CIS reflect the conclusion of the United States that, given Nextel's control of a large portion of available 800 MHz SMR spectrum, its simultaneous control of the principal substitute for 800 MHz SMR service, *i.e.*, 900 MHz SMR service, would unnecessarily and unreasonably restrain competition.

B. Product Market

GE and CCI state that the appropriate product market is not trunked SMR service on 800 MHz, 900 MHz and 220 MHz, but, instead, comprises only 800 MHz SMR service. GE and CCI exclude 900 MHz SMR from the product market on the basis of different technical and regulatory constraints which apply to the 900 MHz services, which they maintain make 900 MHz service significantly more costly to provide than 800 MHz service.[19] GE and CCI also appear to believe that 220 MHz service is and will be subject to sufficiently different technical and regulatory constraints that it should not be included in the relevant product market.

The evidence developed by the government, however, showed that these services, particularly 800 MHz and 900 MHz trunked SMR service, are substitutes from the perspective of the potential dispatch customer. Customers that have significant field operations and need to provide their personnel with the ability to communicate directly with each other perceive that the quality of 800 MHz and 900 MHz service is comparable and, more important, often purchase 900 MHz service, rather than 800 MHz service, when both services are available and 800 MHz service increases a small but significant amount. As a result, 900 MHz service acts to constrain the prices of 800 MHz service and the relevant product market cannot be limited to 800 MHz trunked SMR service.

Existing dispatch customers face a different purchase decision than customers who have not previously purchased trunked SMR service. A customer's initial investment in 800 MHz equipment may act as a disincentive to move to 900 MHz service (or 220 MHz service) in the event of a price increase by its 800 MHz service provider.[20] However, these customers, too, consider 900 MHz trunked SMR service when evaluating whether to continue obtaining service from their current 800 MHz provider. Notwithstanding their sunk costs in equipment, existing 800 MHz customers are willing to move to 900 MHz service when the price of their 800 MHz trunked SMR service increases significantly. SMR service providers track customer changes—what is known as ''churn'' data. The churn data provided to the United States reveals that when dispatch customers using 800 MHz change wireless service providers (rather than dropping service altogether), they frequently move to 900 MHz services.[21] Customers are willing to change formats and bands because 900 MHz service providers have offered a variety of incentives to customers to reduce their costs. In addition, customers can sometimes reduce switching costs by selling their used equipment. As a result, 800 MHz trunked SMR service providers have not been able to impose significant, non-transitory price increases for their service because of the availability of 900 MHz service alternatives.[22]

C. The Markets Selected by the United States

CCI, the Clark Group and GE comment that the Final Judgment is inadequate in failing to address Nextel's dominance of 800 MHz spectrum in other areas of the country, including markets below the top 50, where 900 MHz SMR service was never licensed by the FCC. These areas include New Orleans, where CCI operates, and the cities in which members of the Clark Group operate. The Clark Group offers HHI calculations that show very high concentration in seven selected small cities around the country, which, it argues, constitutes *prima facie* evidence of the illegality of Nextel's acquisitions in these areas.[23] It states that many of the channels Nextel controls are not being used, but ''warehoused'' to prevent their use by competitors.

The government believes, however, that market conditions are significantly different in rural areas and smaller cities than in major metropolitan areas and, moreover, that market conditions in rural areas and smaller cities are likely to change soon. First, unlike the major metropolitan areas, rural and smaller urban areas have generally not experienced spectrum crowding. In the absence of spectrum constraints, existing competitors could expand services in response to any effort by Nextel to raise prices. Second, there is less differentiation between conventional and trunked SMR services, and between trunked SMR services and cellular services in rural areas and smaller cities.[24] In those areas, the lack of congestion reduces the difference in the reliability of subscriber access to conventional versus trunked dispatch systems. In addition, cellular and trunked SMR service are more readily

Nextel is successful in deploying its digital network, it will provide new competition to the cellular telephone companies which would benefit the public far more than the continued use of that spectrum for the provision of dispatch services to businesses. The FCC decisions will displace many current SMR service providers and their customers and make 800 MHz spectrum more scarce for companies seek to increase their analog SMR capacity. In reaching those decisions, however, the FCC concluded that Nextel's deployment of its network, using the Motorola technology, will dramatically increase the number of customers served on an 800 MHz channel, over the number served currently with analog SMR services.

[18] *See United States* v. *BNS, Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988).

[19] GE asserts, among other things, that 900 MHz service providers must construct more sites from which to send signals because of its poorer signal propagation, thus increasing their cost of infrastructure equipment vis-a-vis 800 MHz service providers.

[20] This disincentive is also present when a customer considers whether to change service providers within the 800 MHz band. A service provider will generally deploy a particular format—Motorola or GE/Ericsson or EF Johnson—that is not interchangeable with another. Consequently, someone receiving service from an 800 MHz Motorola trunked SMR system would have to buy new equipment to receive service form an 800 MHz E F Johsnon trunked SMR system.

[21] For example, in response to a late-1993 price increase by Transit Communications, a predecessor to Nextel's dominant 800 MHz SMR service position in Atlanta, more than four times as many dispatch units moved to Motorola's competing 900 MHz service, as to its competing 800 MHz services.

[22] As was stated in the Complaint and CIS, the exact effect of the deployment of 220 MHz SMR service in the trunked SMR market cannot be determined with any precision at present. However, based on the planned characteristics of 220 MHz SMR service, it cannot be excluded from the relevant product market.

[23] The Clark Group's channel count appears to count channels that are re-used as multiple channels, rather than discrete frequencies, thereby significantly overstating Nextel's channel position.

[24] As explained in the Complaint and CIS, conventional dispatch service should generally be excluded from the trunked SMR product market because it offers lesser privacy and lower reliability. Cellular telephone service is not in the market because it is significantly more expensive than trunked SMR service, is significantly more difficult for customers to restrict communications to the defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis.

substitutable in those areas.[25] Thus, customers in rural areas and smaller cities appear to be better able to turn to alternative types of service in response to a significant increase in price by trunked SMR service providers.

Third, the FCC will soon grant new 900 MHz and 220 MHz SMR licenses in rural and small metropolitan areas. The Clark Group argues that the additional spectrum to be introduced in these markets will not be effective to constrain Nextel because Nextel's dominance in the 800 MHz band is a predictor of its likely dominance of those other bands. There is no reason to believe, however, that Nextel will be able to gain a dominant position in the 900 MHz or 220 MHz bands. Given its position in the 800 MHz band, and the commitment it has already made to implement its planned digital network in that band, it is unlikely that Nextel has the incentive to acquire significant blocks of 900 MHz or 220 MHz spectrum.

The Clark Group suggests that Nextel should be required to divest itself of 800 MHz channels in excess of those necessary to construct its planned digital network.[26] As explained above, the United States believes that such divestitures would be inconsistent with FCC efforts to facilitate the creation of new digital systems that would significantly benefit the public. Moreover, this suggestion would entail severe practical difficulties in most of the markets at issue because it would be extraordinarily difficult to establish how many channels might be needed in each of the relevant markets.

There is no single number of channels at which the technology will operate most efficiently or with the same costs as the cellular companies. Evidence provided to the Department establishes that Nextel's cost of doing business will decrease as the number of channels it holds increases over a large number of channels. Moreover, any calculation of operational efficiency will vary substantially from city to city, based on the potential number of customers served, the topography, the number of sites operated and other factors. Further, the costs may well change as technology changes in the wireless industry.[27]

In making its public interest determination this Court should focus on whether the relief provided by the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint.[28] It should not look to ''markets other than those alleged in the government's complaint.'' [29] In this case, the proposed Final Judgment removes the threat to competition from defendants' simultaneous control of virtually all available 800 MHz and 900 MHz SMR spectrum in fifteen (15) of the largest cities in the country. At the same time, the proposed Consent Decree allows Nextel to go forward with its plans for a digital mobile network. Hamstringing its efforts by limiting the number of 800 MHz SMR channels it may own or control to preserve traditional competition between Nextel and analog dispatch service providers should be rejected.

The Clark Group also asserts that the United States was only evaluating the proposed Nextel/Motorola transaction, and did not give adequate consideration to the effects of the Dial Page and OneComm acquisitions.[30] This assertion is wrong. The Complaint and proposed Final Judgment both clearly indicate that they are intended to address the competitive ramifications of the entire series of transactions by which Nextel is to acquire the spectrum holdings of Motorola, Dial Page and OneComm.[31] Their objection really goes to the decision to limit the relief sought to the fifteen (15) cities identified in the complaint.

D. Geographic Market

The Clark Group believes that the geographic markets in which the transaction should be judged are Rand McNally Basic Trading Areas or Metropolitan Statistical Areas, rather than the geographic core markets defined in the Complaint and CIS. The Clark Group's proposal would increase significantly the area in which concentration is assessed over that in the proposed Final Judgment: frequencies owned or managed within twenty five miles of each city's center.

However, neither the Clark Group nor any other commenter has seriously challenged the geographic market definition posited by the United States. The geographic market definition proposed by the United States is based upon the method of license allocation historically utilized by the FCC for the dispatch industry. The FCC has issued licenses based upon a service radius from a center point in which the licensee has exclusive use of a frequency. As described in the CIS, because of the SMR operator's need to provide service in critical, high-traffic areas, the geographic market in any particular city may be approximated by a 25 mile radius from the center point of that city.

E. Regulatory Complaints

Many of the commenters' complaints relate more to the alleged inadequacy or impropriety of the FCC's regulation of SMR than to the proposed Final Judgment. Pick alleges that many of Motorola's licenses have been fraudulently obtained. CCI asserts that the FCC's granting of wide-area waivers led to the development of license mills and spectrum warehousing, thus permitting the accumulation of channel concentrations which would have been prohibited by the underlying rules. GE, CCI and the Clark Group argue that the warehousing or holding of spectrum injures other small operators (such as themselves) who cannot expand their 800 MHz systems because there is no spectrum available to them to do so. Their inability to expand their systems eventually leads to degraded service quality as customers are added and congestion grows worse.

In this antitrust proceeding, the United States has not attempted to assess whether any person has improperly obtained or used the licenses they hold. Improper conduct in obtaining licenses and the failure to use the licenses in accordance with legal requirements are matters within the jurisdiction of the FCC. Where any person has information that a license

[25] Trunked SMR providers in more rural areas use more of their capacity to provide interconnection to the public switched telephone network, deriving as much as 60% of their revenues from this mobile telephone service. In major metropolitan areas trunked SMR service providers generally limit the amount of interconnect sold on their systems to 15 to 25% of their business in order to accommodate the demand for dispatch services.

[26] This is the relief the Clark Group seeks in its comments. Clark Group Comments at 25, January 9, 1995.

[27] With respect to Atlanta, the United States found that Nextel would own more channels than it needed to provide digital service and another company was poised to enter the market. These factors distinguished it from the other cities in the complaint.

[28] *United States* v. *Bechtel Corp.*, 1979–1 Trade Cas. (CCH) ¶ 62,430 at 76,565 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660, 665–66 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981).

[29] *United States* v. *BNS, Inc., supra*, 858 F.2d at 462–63.

[30] As noted in the CIS, over the past few years a few companies, including Nextel, Dial Page and OneComm, have purchased hundreds of small companies holding licenses to provide trunked SMR service in the 800 MHz band. As a result of those acquisitions, OneComm is by far the largest holder of trunked SMR spectrum in 16 Western States, Dial Page is the largest holder of such spectrum in 12 Southeastern states, and Nextel is the largest holder of such spectrum in the other states.

[31] The definition of ''Nextel'' includes both Dial Page and OneComm. In addition, Atlanta, Miami and Orlando were identified as problem cities in the Dial Page service area, while Seattle and Denver were identified as problem cities in the OneComm service area. Dial Page and Nextel announced a definitive merger agreement on February 20, 1995.

has been obtained through fraud or misrepresentation, the matter is properly addressed to the FCC for it to investigate as a possible violation of its licensing regulations.

F. Effects in the Equipment Market

GE and the Clark Group (in a footnote) assert that the proposed Final Judgment will permit Motorola to control the SMR equipment market in the 800 MHz band because the proposed Final Judgment does not address the possible effect of the ancillary agreements pursuant to which Nextel will purchase Motorola's digital infrastructure and subscriber equipment for its planned 800 MHz wide-area SMR system.

The ancillary equipment agreements require Nextel to implement Motorola's digital system on its 800 MHz channels but do not control Nextel's decision whether to utilize Motorola's analog equipment on its 800 MHz or the 900 MHz SMR channels.[32] As discussed in the CIS, the United States considered the desirability of requiring the modification of the ancillary equipment agreements. The United States rejected that alternative because Motorola's digital SMR equipment pricing practices are likely to be constrained by those of other wireless equipment suppliers to the cellular service providers and to the personal communications service providers.

Moreover, a proceeding under the Tunney Act is to consider whether entry of the proposed Final Judgment, agreed to by the parties, is in the public interest. A Tunney Act proceeding should not consider whether the government might have brought some other case or a hypothetical settlement to which the parties have not agreed. Simply stated, the Tunney Act does not give the Court the power to impose different terms on the parties. *See, e.g., United States* v. *American Tel. & Tel. Co.,* 552 F.Supp. 131, 153 n.95 (D.D.C. 1982) *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983)(Mem).

G. Effects in a Second Market

GE, the Clark Group and CCI contend that the United States inappropriately considered competitive benefits in a second market when analyzing the likely effects of this transaction in the trunked SMR market. All three argue that consideration of effects in the cellular market was inappropriate, impermissible and irrelevant to a determination of harm in the trunked SMR market. The commenters also refer to a recent article in the *Wall Street Journal* of January 3, 1995. In that article, Nextel is said to have abandoned its ambitions to become a cellular competitor, and chief executive Morgan O'Brien is allegedly quoted as saying that Nextel never portrayed itself as a provider of cellular-like services to consumers, but as a provider of such services to persons now using analog dispatch services.[33]

The United States believes that it is entirely appropriate, in exercising its discretion to devise an appropriate remedy in this case, to consider the policies and decisions of the FCC, and the effects that proposed remedies might have on the efforts of the FCC to achieve its policy objectives.[34]

With respect to the newspaper articles Nextel has provided the United States with letters from its executives and others in which they challenge the accuracy of the statements in the articles, and an affidavit from the Chairman of its Board in which he indicates that Nextel's business plans have not changed. Given these statements, and Nextel's other statements in filings to the Securities and Exchange Commission, the FCC and the Department of Justice, the United States is satisfied that Nextel is committed to the construction of a digital SMR network that will soon compete with cellular service providers.[35]

V. Conclusion

After careful consideration of the comments, the United States continues to believe that, for the reasons stated herein and in the Competitive Impact Statement, the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. There has been no showing that the proposed settlement constitutes an abuse of discretion by the United States or that it is not within the zone of settlements consistent with the public interest. Therefore, entry of the proposed Final Judgment should be found to be in the public interest and should be entered.

Respectfully submitted,

Dated: March 24, 1995.

Anne K. Bingaman,
Assistant Attorney General.
Steven C. Sunshine,
Deputy Assistant Attorney General.
Constance K. Robinson,
Director of Operations.
Donald J. Russell,
Chief, Telecommunications Task Force.
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J. Philip Sauntry, Jr.,
Susanna M. Zwerling,
Attorneys.
Department of Justice,
Antitrust Division.

Certificate of Service

I, Kathy L. Cuff, hereby certify under penalty of perjury that I am not a party to this action, that I am not less than 18 years of age, and that I have on this 24th day of March 1995, caused a copy of the accompanying United States Response to Public Comments to the Proposed Final Judgment to be served by mailing a copy, postage prepaid, upon:

James D. Sonda,
Kirkland & Ellis.
Counsel for Motorola, Inc.
and
Charles A. James,
Jones, Day, Reavis & Pogue.
Counsel for Nextel Communications, Inc.

Kathy L. Cuff,

Dated: March 24, 1995.

Attachment A

Via Hand Delivery

George S. Baranko:

U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Washington, D.C. 20002.

RE: U.S. Motorola, Nextel, *Civil Action No. 94–2331*

December 14, 1994.

Dear Mr. Baranko:

Please consider the enclosed pleading a comment by the Clarks' Group to the proposed Final Judgment in the above referenced case.

Sincerely,

Raymond J. Kimball,

RJK/rid
Enclosure

cc: Michael R. Carper, Esquire, Counsel for OneComm Corporation; Joel M. Margolis, Esquire, Counsel for Nextel Communications, Inc.; R. Michael Senkowski, Esquire, Counsel for Motorola.

In the Matter of: Applications of Nextel Communications, Inc. for Transfer of Control of ONECOMM Corporation, N.A. and C–Call Corp.

To: Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau

[32] Implementation of the digital SMR system will not be immediate across the nation; some of Nextel's 800 MHz channels are likely to remain analog for some interim period.

[33] In addition, a *Land Mobile Radio News* article of December 2, 1994, a Motorola spokesperson discussed refocusing MIRS marketing efforts to stress MIRS as a bundle of integrated wireless services for dispatch rather than a third cellular competitor. The *Wall Street Journal* and *Land Mobile Radio News* articles are Attachments G and H, respectively.

[34] The modified final judgment entered by the *Court in United States* v. *Western Electric, Co.,* 552 F.Supp. 131 (D.D.C. 1982), reflected an extensive analysis of the FCC's regulatory policies and its abilities to address specific competitive problems.

[35] Nextel's letters and its affidavit to the Department of Justice are Attachments I and J, respectively.

[DA 94–1087]
[File No. 903335]
[File No. 903334]

Comments on Proposed Antitrust Final Judgment

Raymond J. Kimball,

Ross & Hardies.

Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing Inc. and Earl's Wireless Communications.

Dated: December 14, 1994.

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Summary of Argument

Following the Nextel/OneComm merger, Nextel will control 91% of all licensed frequencies in Washington State, Oregon, and Idaho. Nextel would control ninety-six percent (96%) of all licensed 800 MHz SMR trunked frequencies in Washington State, eighty-seven percent (87%) of licensed frequencies in Oregon, and seventy-three percent (73%) of all 800 MHz SMR channels in Idaho. This concentration meets the classic definition of monopoly power. 800 MHz SMR is the only relevant SMR market in these and most of the other 13 Western states where this monopoly will occur.

Nextel's monopoly will enable it to reduce actual and potential competition, affect price and quality of service, and inhibit the development of alternative technologies. Independent systems no longer can expand; customer quality is falling, and employee layoffs and cessation of radio sales will occur in 1995. 1994 capital expansion plans already have been curtailed as a result of predatory practices by monopoly companies.

There is enough room and spectrum for every kind of mobile radio service provider, including independent operators, dispatch, low-powered digital, mobile telephone, ''traditional'' SMR, high-powered analogue and digital, and high-cost cellular-like and low-cost wide area operations. It would be inconsistent with the public interest for the FCC to approve monopoly mergers which will eliminate markets created, matured and encouraged by the Commission for over a quarter-century.

Comments on Proposed Antitrust Final Judgment

Clarks' Electronics, Lewiston, ID (''Clarks''); Teton Communications, Idaho Falls, ID (''Teton''); Radio Service Company, Burley and Twin Falls, ID (''RSI''); Zundel's Radio, Inc., Pocatello, ID (''Zundel's''); Business Radio, Inc., Kennewick, WA, (''BRI''); and Accu Comm, Inc., Mukilteo, WA (''AccuComm''); Earl's Distributing Inc. and Earl's Wireless Communications (''Earl's'') (collectively ''Clarks''), by their attorneys and pursuant of Section 1.41 and 1.46 of the Commission rules, hereby files its comments in support of and in supplement to its Preliminary Comments filed on November 30, 1994.[1]

These comments primarily provide factual information which demonstrate monopolization of the 800 MHz Specialized Mobile Radio (''SMR'') market, resulting from the proposed transfer of control of Nextel and OneComm. As a result of the proposed merger, Nextel will monopolize[2] SMR frequencies in sixteen (16) western states.

I. Justice Department's Filings

On October 27, 1994, the U.S. Department of Justice (''DOJ'') filed an antitrust complaint and proposed Final Order, among other papers, with the District of Columbia District Court, complaining that Nextel's proposed merger with Motorola would monopolize SMR service in the thirteen (13) largest urban markets.[3]

On November 3, Motorola filed in this proceeding the proposed Final Judgment, citing its relevance to the issues herein. Motorola failed to file all the papers DOJ filed with the District Court, including the complaint and the DOJ's Competitive Impact Statement (''CIS''). Those additional papers clearly are relevant to this proceeding. The CIS gives the context and reasoning of DOJ, and the complaint explains what was examined in detail and what was not. The ''missing'' papers are attached hereto as Exhibit A. Motorola's selective proffer of the Final Judgment as the only document ''relevant'' to this proceeding is, to say the least, a most narrow definition of relevancy.

In its complaint, the DOJ identified the relevant product market as ''trunked SMR service in 800 MHz, 900 MHz and 220 MHz.'' Complaint at 6. The relevant geographic markets were defined as ''the service areas in which the FCC has issued licenses for the provision of SMR service.'' *Id.* The DOJ noted that Nextel had agreed to acquire OneComm's ''accumulated 800 MHz spectrum in sixteen Western states,'' and DialPage, Inc.'s 800 MHz holdings in ''twelve Southeastern states.'' *Id.* at 8. The DOJ did not further analyze the monopoly effect of such acquisitions on the relevant geographic markets in these twenty-eight (28) states, concentrating only on the competitive impact of Nextel's acquisition of Motorola licenses in the top thirteen urban markets. The DOJ justified its lack of analysis of the OneComm acquisition with only minimal discussion:

> As an alternative to the proposed Final Judgment, the United States considered litigation seeking to limit the number of 800 MHz channels Nextel held in each affected city. The United States rejected that alternative for two reasons: First, it is satisfied that the relief it has obtained relating to 900 MHz frequencies will adequately address the harm to competition alleged in the complaint; Second, the Department did not want to inhibit Nextel's ability to offer cellular telephone service.[4]

The DOJ did not adequately analyze the anti-competitive impact on the SMR markets in the sixteen (16) western states which would result from the proposed OneComm merger. Indeed, the DOJ did not analyze the impact at all, because that merger was not the focus of its complaint—only the Motorola merger was. However, Nextel's ability to dominate the SMR markets through market concentration following the OneComm merger will violate Section 7

[1] On November 30, 1994, Clarks filed a Motion to Accept Pleading and filed preliminary comments, indicating that additional factual showings were under preparation but could not have been completed by November 21. See Declaration of William Holesworth attached hereto. Acceptance of this additional information is in the public interest. An additional Motion for Acceptance is filed simultaneously.

[2] Monopoly control is used herein in its strict antitrust definition, *i.e.*, control of greater than 70% of the relevant market. *See Caldwell* v. *American Basketball Association*, 825 F. Supp. 558, 575 (S.D.N.Y. 1993) (noting that courts usually find monopoly power where defendants possess more than 70% of the market); *United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 167–69, 68 S. Ct. 915, 934–935 (1948) (finding monopoly power where five major film-production companies effectively controlled which theaters could exhibit first-run films through the companies' affiliation with at least 70% of the first-run theaters in major U.S. cities).

[3] *United States of America v. Motorola, Inc., and Nextel Communications, Inc.*, Case No. 1:94 CV02331 (Hogan, J.) (D.C., District of Columbia, filed October 27, 1994) (hereinafter ''US v. Motorola, Nextel'').

[4] CIS at 17–18.

of the Clayton Act in the following ways:

(a) Actual and potential competition between Nextel and OneComm (and the licenses they manage) in the sale of SMR services in the sixteen (16) western states and their submarkets will be eliminated;

(b) Competition generally in the sale of trunked SMR services in the sixteen (16) Western states where OneComm has licenses will be substantially lessened; and

(c) The deployment of alternative technologies will be inhibited.

The following sections discuss these conclusions.

II. Nextel Would Monopolize Trunked SMR Service in Sixteen (16) Western States Following the OneComm Merger

Nextel will monopolize trunked SMR service in sixteen (16) Western states following the OneComm merger, if approved. Clarks has selected three of those states for detailed study—Washington, Oregon and Idaho. Clarks, *et. al.*, believe, through their knowledge of SMR license concentration in Western states that the concentration levels are higher than or equal to the concentration levels in the three surveyed states.

Following the merger, Nextel will control 91% of all licensed frequencies in Washington, Oregon, and Idaho. Nextel would control ninety-one percent (i.e., 90.65%) of all licensed frequencies in Washington, Oregon, and Idaho:

State	Nextel/ Onecomm freq.	Total freq.
Washington	10,018	10,424
Oregon	6,543	7,461
Idaho	1,404	1,932
Total	17,965	19,817 [5]=90.65%

[5] Source—FCC Database as of November 10, 1994, frequencies in the 800 MHz band licensed for trunked SMR (YX) service. See attached Declaration of William Holesworth, Exhibit D.

Nextel would control 96% of all 800 MHz SMR channels in Washington State, 88% of all 800 MHz SMR channels in Oregon, and 73% of all licensed channels in Idaho.[6] This level of concentration meets the classic case law definitions of monopoly under the relevant case law.[7]

A. Relevant Product Market

Clarks agrees with the Department of Justice that a relevant product market is the trunked SMR market. The trunked SMR market in Washington, Oregon, and Idaho is slightly different from the thirteen (13) largest urban markets, in that it does not primarily include 900 MHz channels, and only includes 220 MHz channels to a limited extent.[8]

The 800 MHz SMR business dominates the SMR product and geographic markets and is the only market for analyzing SMR concentration outside the top 50 markets. Substantial 800 MHz market domination by Nextel in the Western states also is a predictor of future 900 MHz and 220 MHz frequency concentration. Many of the presently viable competitors to Nextel would be eliminated prior to introduction of 900 MHz and 220 MHz channels, based on the proposed Nextel/OneComm merger.

B. Geographic Market

The relevant geographic market was defined by the Department of Justice for the top 13 markets as a 25-mile radius from center city.[9] Most current independent SMR operators serve BTA [10] or MSA [11] markets. The Commission has proposed that 800 MHz SMRs be licensed through auctions on an MTA market basis.[12] The MTAs are indeed large markets not reflective of the current market, but of what the FCC would like the market to become through auction.[13]

For example, the Salt Lake City MTA includes most of Utah, all of Southern Idaho, including Boise and Twin Falls, and Eastern Oregon. No one SMR operator presently provides service to this entire region; however, through acquisition of OneComm, Nextel proposes to serve state-sized regions in the Western states.

Clarks analyzed 800 MHz frequency concentration in the three Western states in which its members provide service. Given the various geographic market definitions currently operating in the SMR industry, state-wide and 3-state combined analysis approximates actual business patterns and the future prospective market sizes, including MTAs. The results are set forth in the Declaration of William Holesworth, attached hereto, showing frequency concentration levels in 800 MHz SMR about 85% in many Western markets, and above 70% in virtually all markets.

DOJ found that:

> * * * Nextel holds a dominant share of the 800 MHz SMR spectrum available for trunked SMR services in most of the largest markets in the country.

It can be concluded, based on the material submitted herein, that:

> Following the Nextel/OneComm merger, Nextel will hold a dominant share of the 800 MHz SMR spectrum available for trunked SMR service in most markets, large and small, in the states of Washington, Oregon, and Idaho.

Further, based on this survey and based on the FCC's database records of licensed frequency use by Nextel and OneComm, Nextel cannot be heard to deny that it will hold a dominant share of the 800 MHz SMR spectrum available for trunked SMR service in most markets in the 16 Western states in which OneComm operates if the merger with OneComm is approved.

III. Anti-Competitive Impact of Undue Concentration in the 800 MHz SMR Markets

Will Nextel's market domination in Washington, Oregon and Idaho, and in the 13 other states in which OneComm is licensed, reduce actual and potential competition, affect price and quality of service, and inhibit the development of alternative technologies? [14]

Attached are declarations of various independent SMR operators in Washington, Oregon, and Idaho describing in detail the present and future effect of Nextel's proposed market domination through acquisition of OneComm. Those effects include:

1. *Product Market Expansion.* Elimination of competitors' ability to expand product service and maintain service quality.

[6] See attached Declaration of William Holesworth.

[7] *United States* v. *Grinnell Corp.*, 385 U.S. 563, 571, 86 S. Ct. 1698, 1704 (1966) (stating monopoly power "ordinarily is inferred from the seller's possession of a predominant share of the market" and finding monopoly where company controlled approximately 87% of the market); *Hiland Dairy, Inc.* v. *Kroger Co.*, 402 F.2d 968, 974 and n.6 (noting that "a substantial part of the market must be controlled by the monopolist to enable the raising and lowering of prices and the undue restriction on competition" and surveying monopoly findings in cases where companies controlled at least 70% of the markets).

[8] The 900 MHz band presently is not licensed outside the top 50 urban markets. The 220 MHz band, while licensed, has not been substantially constructed, based on lack of equipment. Neither of these bands is a significant factor in the Western states smaller cities or rural areas.

[9] See Final Judgment 2. It is unclear whether this definition is the only DOJ definition since it is not employed in the complaint. See Complaint at 6–7.

[10] Rand McNalley Basic Trading Areas.

[11] Census Bureau Metropolitan Statistical Areas.

[12] Rand McNalley Major Trading Areas. There are 51 MTAs used by the FCC for PCS purposes.

[13] See Further Notice of Proposed Rule Making, PR Docket 93–144 (November 4, 1994).

[14] See DOJ Complaint at 15. *See also American Tobacco Co.* v. *United States*, 328 U.S. 781, 811, 66 S.Ct. 1125, 1139–40 (1946) (finding monopoly where "power exists to raise prices or to exclude competition when it desired to do so"); *United States* v. *Pabst Brewing Co.*, 384 U.S. 546, 86 S.Ct. 1665 (1966) (explaining purpose of Clayton Act is to prevent companies from lessening competition through acquisition).

2. *Geographic Expansion.* Elimination of competitors' ability to expand geographic service areas, through dominant control and warehousing of available frequencies, many of which frequencies will not and cannot be built.

3. *Consumer Prices.* Increased pricing. Nextel is charging and proposes to charge higher prices in its markets than independent analogue SMR operators.[15]

4. *Inhibiting Restraints on Competing Technologies.* Nextel's dominance threatens the development of new wide-area alliances by independent operators, *e.g.*, Northwest Wireless, by inhibiting expansion and the continued viability of competing equipment manufacturers to Motorola.

A. The Merger Would Inhibit the Deployment of Alternative Technologies

The Nextel/OneComm merger would inhibit the deployment of the Northwest Wireless Network in these Western states, and would effectively inhibit competition from other manufacturers. In Washington State, where Nextel would dominate 96% of the available frequencies using Motorola equipment, only 4% of the market is left to competing SMR equipment manufacturers.[16] This is hardly sufficient to sustain a market presence. The percentage of the market available to competitors in Oregon and Idaho is not much better—*i.e.*, 13% and 27%, respectively. If that largest market in Idaho is equally divided three ways, each of the three competing equipment manufacturers could only expect to serve less than 10% of the market.

The impact on the development of independent roaming alliances such as Northwest Wireless Network would also be severe. NWN was formed to give the operators of EF Johnson equipment an opportunity to offer their customers an alternative to Motorola's planned MIRS system. However, with continued short-spacing of SMR operators using EF Johnson SMR equipment on the local level, and forcing small market shares on competing manufacturers in the various states, Nextel/Motorola/OneComm can use their dominant market position to keep NWN from successfully offering alternative digital SMR service to new and existing customers.

B. Nextel and OneComm's Dominance of Available Frequencies Is Already Affecting the Quality of Service

The monopoly impact on quality of service is already being experienced in 1994, even in advance of the merger. The merger will exacerbate the situation, by permitting Nextel to combine its Questar and Motorola license holdings with those of OneComm.[17]

A number of the attached declarations demonstrate that service quality among independent operators is declining as a result of the inability to get access to frequencies OneComm/Nextel have warehoused.[18] SMR frequency domination is leading to lessened service quality to existing customers, both on a ''dropped call'' basis, and through customer inability to expand on non-Motorola systems. These are *exactly* the kind of anti-competitive effects the Clayton Act is designed to prevent. This Commission also should take very seriously the public interest considerations inherent in permitting market concentration to squeeze out competing manufacturers and operators, and to reduce quality service to the public.

C. The Proposed Merger Will Reduce Competition Between Nextel and OneComm

Nextel has purchased Questar's and Motorola's licenses in the Western states, and has monopolized trunked SMR service in the major urban markets, including Seattle, Washington among others.[19] OneComm is a major potential competitor to Nextel, both now and in the FCC's proposed auctions of SMR markets.[20] That actual and potential competition would be completely eliminated by the proposed merger. OneComm and CenCall are by far the largest SMR license holders in the Western markets; in contrast, Motorola was the second largest ''provider of service'' in the nation.[21]

By eliminating this competition in the sixteen (16) Western states, Nextel eliminates the potential for the following competitive environment:

1. Sale of some of OneComm's frequencies to existing operators to permit expansion, including possible forced divestiture by the FCC to avoid anti-competitive effects.

2. Merger prevents another equipment manufacturer from obtaining a significant share of the SMR market in the Western states.

D. Impact on the Cellular Market

The DOJ admits that it could litigate against Nextel on its 800 MHz concentration—*i.e.*, that the Clayton Act is violated by those concentrations:

> As an alternative to the proposed Final Judgment, the United States considered litigation seeking to limit the *number of 800 MHz channels Nextel held in each affected city*.[22]

The DOJ refuses to disturb an admitted monopoly, in order, it says, to permit Nextel to enter the ''cellular market.''[23]

Contrary to DOJ's assumptions, Nextel is not entering the cellular market. Motorola's MIRS technology is *not* competitive with cellular:

> * * * Motorola, Inc.'s officials last week stressed the need to adjust their marketing strategy for ESMR technology. *The greatest marketing change would attempt to alter the perception that ESMRs would soon be a third cellular competitor, focusing instead on integrated wireless services for dispatch*, said Lise Farmer, spokeswoman for the Motorola division supplying * * * MIRS technology to Nextel * * * and its potential partners, OneComm Corp. and DialPage, Inc.
>
> Robert Pass: ''They just started talking about being a third cellular carrier * * * but they didn't have technology that was superior to cellular.'' [Without superior technology] and if they can't price it well below cellular, then how are they going to [complete with cellular].''[24]

Thus, DOJ's concern that the Nextel should be allowed to enter the cellular market through concentrating 800 MHz frequencies in one operator ignores two important facts. Nextel/MIRS will not compete effectively with cellular, and, as a system, is not *designed* to compete effectively.

Take away the ''hype'' about entering the cellular market, which Nextel and Motorola have successfully sold to the FCC (and now DOJ) over the past few years, and it now becomes clear what independent operators have been saying all along. The SMR market, as a stand-alone, competitive, independent low-cost alternative market, has been and is being systematically eliminated by Nextel's predatory acquisitions and anti-competitive practices, simply so Nextel can dominate the frequency spectrum's value.

The FCC has encouraged such predatory practices through permissive

[15] See Declaration of Rick E. Hafla, and attachments thereto.

[16] *E.g.*, EF Johnson; Ericsson/GE; and Uniden, the major competitors at this time in the SMR market.

[17] The concentration is continuing with OneComm acquiring seventeen (17) ''speculator'' channels recently constructed in the Southwestern Idaho market.

[18] See Declarations of Rick Hafla, Steven T. Earl.

[19] Seattle is one of the subject markets in the DOJ Complaint. See Complaint at 6.

[20] See Further Notice of Proposed Rule Making, D. 93–144 (November 4, 1994).

[21] DOJ Complaint at 8. OneComm's systems are not substantially constructed, and therefore it is not presently the most significant provider of service in all 16 states. However, its unconstructed license holdings are prodigious in the Western states, including Washington, Oregon, and Idaho, and every bit as dominant as Motorola's existing operations on the present and near future status of SMR services.

[22] DOJ CIS at 17.

[23] *Id.*, at 17–18.

[24] Land Mobile Radio News, Vol. 48, No. 47, p. 1, (December 2, 1994). (Emphasis and brackets in original.)

rule changes which encouraged frequency warehousing and short-spacing rules which have been used to squeeze independent operators out of the market. The FCC and DOJ acted in the mistaken belief they were creating a third cellular operation. That premise is no longer tenable.

Nextel is offering a ''next generation'' of digital SMR service, which independent operators intend to provide also, through co-operatives and alliances such as Northwest Wireless Network. The public interest considerations which guide this Commission should not lead it to approve a merger which will establish single-provider dominance, once and for all, and eliminate independent competition in the emerging and *still growing* mobile radio markets.

There is enough room for everyone—dispatch, mobile telephone services, low-powered digital, high-powered analogue and digital, high-cost and low cost operations. However, if the FCC signals telecommunications providers that they can ignore the antitrust laws, acquire 91% of a relevant market, drive equipment suppliers and low-cost service providers, small businesses, and rural service out of the market, and force service quality reductions on the surviving market segments, then the Communications public interest standard does not stand for much. While the Commission may not have jurisdiction to enforce the Clayton Act, it is not empowered to ignore its existence or impact on the public interest, especially where the impact on a relevant market is so pronounced.

In fact, Congress intended for the Commission to avoid license concentrations which would tend to lessen competition when the Congress enacted 47 U.S.C. 309(j). Within the statute, Congress expressed its interest in promoting the public interest through its promotion of economic opportunity and competition. *See* 47 U.S.C. 309(j)(3)B). In the House Report, the House Committee on Energy and Commerce declared that although the Committee noted the Commission did not need to apply any particular antitrust tests, the Commission should take into account single licensee's domination of a service. H. Rep. No. 103–111, at p. 254. The Committee expressed its concern ''that, unless the Commission is sensitive to the need to maintain opportunities for small businesses, competitive bidding could result in a significant increase in concentration in the telecommunications industries,'' *Id.* At no point did Congress declare the anti-trust laws inapplicable to the Commission's considerations.

The FCC should not approve mergers which will eliminate markets it has created, nurtured and promoted over a quarter century. The FCC also should adjust its short-spacing and warehousing policies to prevent the present anti-competitive effects of those policies on existing, viable businesses.

Wherefore, the premises considered, the above referenced applications for transfer of control should be denied.

Respectively submitted,

Dated: December 14, 1994.

Raymond J. Kimball, Ross & Hardies.

Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing, Inc. and Earl's Wireless Communications.

Additional Comments of Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accucomm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Communications Center, Inc., and Leflore Communications, Inc. to the Proposed Antitrust Final Judgment

[Case Number 1:94CV02331]

[Judge: Thomas F. Hogan]

[Deck Type: Antitrust]

[Date Stamp: 10/27/94]

Pursuant to 15 U.S.C.A. 16, Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu-Comm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Inc., Communications Center, Inc., and Leflore Communications, Inc. (collectively referred to as ''Clarks''),[1] by their counsel, hereby submit their additional comments[2] and attached exhibits in opposition to the proposed Final Judgment between Motorola, Inc. (''Motorola''), Nextel Communications, Inc. (''Nextel''), and the United States Department of Justice (''Justice Department'') in the above-captioned action (the ''Action'').

Introduction

The Justice Department has proposed this Final Judgment to address the potential anticompetitive effect of the pending acquisitions by Nextel of OneComm, Inc. (''OneComm''), Dial Page, Inc. (''Dial Page'') and of all specialized mobile radio (''SMR'') licenses owned and managed by Motorola (collectively, the ''Nextel Acquisitions'') on the market for trunked SMR service. SMR is a unique blend of radio dispatch and interconnect communication service. The Nextel Acquisitions will have had a pronounced anticompetitive effect on many SMR service markets, large and small, urban and rural, throughout the country. The proposed Final Judgment purports to remedy this anticompetitive effect in only ''fifteen of the largest cities in the United States'' (the ''15 Select Cities''), but does not address the anticompetitive effect of the Nextel Acquisitions in other markets. Thus, the proposed Final Judgment will permit Nextel to own or control a dominant (and in some instances a monopoly) share of the SMR service markets in the smaller urban and rural areas in which SMR operators such as Clarks operate and compete. Because it neither addresses nor remedies the anticompetitive effect of the Nextel Acquisition in these markets, nor in any markets outside of the 15 Select Cities, as a matter of law, the proposed Final Judgment cannot be in the public interest and must be rejected.

Background

A. SMR Technology

SMR is a form of land mobile communication service utilized by business customers such as contractors, service companies, delivery services and other businesses that have significant field operations. (Competitive Impact Statement, October 27, 1994 (hereinafter ''CIS'') at p. 3.) SMR permits a customer to communicate with its *entire* field force on a one-to-many, or ''dispatch'' basis, yet also permits that customer to communicate to a single person *within* its field force on a one-to-one, or ''interconnected'' basis. (*Id.*).

SMR operators are licensed by the Federal Communications Commission (''FCC''). Licensed SMR operators are assigned specific channels of radio frequency by the FCC. The operator has exclusive use of that channel within its service area (''Service Area''). There is a limited amount of frequency spectrum

[1] The aforementioned entities are licensees and managers of Specialized Mobile Radio licenses in Idaho, Washington State, Oregon, Oklahoma, Louisiana and Mississippi. They serve public safety and individual customers throughout their local and regional service areas. They are, or would be in direct competition with SMR licenses, existing and unconstructed, owned, controlled or managed by Nextel Communications, Inc.

[2] Clark submitted its initial comments, a Petition For Rulemaking filed by Fleet Call, Inc. (now Nextel) to the Federal Communications Commission on April 22, 1992, under cover of a letter from their counsel to George S. Baranko dated December 14, 1994.

available for SMR service. (Complaint at ¶ 15.) Channels are assigned in pairs to facilitate two-way communication. *Id.*

SMR systems typically use a single high-elevation base station centrally located within each Service Area to receive, allocate and transmit signals to and mobile units throughout the Service Area. (*Id* at ¶ 14.) The FCC generally mandates that SMR base stations be constructed at least 70 miles apart, and that the signal from one base station may not interfere with the same frequency channel assigned in an adjoining Service Area. (47 CFR 90.621(b).) As a result, the minimum Service Area of any SMR operator is generally defined by a 35 mile radius from its base station, and the operator enjoys exclusive use of its channels within that 35 mile radius. (CIS at p. 4.) An SMR signal, however, can travel distances of up to 100 miles. Accordingly, where a channel in use on one SMR system has not been allocated to a licensee on an SMR system in an adjoining Service Area, the SMR coverage area may extend beyond the minimum protected 35 mile radius.

B. Development of SMR Industry

The FCC first licensed SMR service in the late 1970's. The FCC allocated 280 channel pairs in the 800 MHz radio band within each Service Area to operators throughout the country.[3] (Complaint at ¶ 15.) Licensees could apply for up to 5 trunked channels at a time, with a maximum of 20 channel pairs per operator in any Service Area. (47 CFR 90.621, 90.627; *see also* Complaint at ¶ 19.) To retain its channels, an SMR operator had to build its facility within one year and ''load'' each of its allocated channels with, at least, 70 radio units within five years. (CIS at p. 7.) Any ''unbuilt'' or ''unloaded'' channels were reassigned to applicants on a waiting list. (*Id.*) Unconstructed facilities could not be transferred or assigned. (*See* 47 CFR 90.609.)

By the mid-1980's, the allocated 800 MHz channels had reached their capacity of 100 to 150 customers per channel in most large cities. (*Id.* at ¶ 15.) As a result, in 1986, the FCC allocated an additional 200 channel pairs in the 900 MHz radio band. (*Id.*) This 900 MHz capacity, however, was allocated exclusively to Service Areas in the 50 largest metropolitan service areas. (*Id.*) *In the smaller urban and in the rural markets, SMR operates exclusively on the originally allotted channels in the 800 MHz frequency.* (*Id.*) (emphasis supplied.)[4]

C. Recent Concentration in the SMR Industry

The competitive landscape of the markets for trunked SMR service and equipment changed dramatically in 1993. Touting the benefits of a wider-area national SMR network that might compete with existing mobile cellular service, Nextel successfully lobbied the FCC to relax its limitations on channel applications, holdings and temporal build-out/loading requirements. (See *In the Matter of Amendment of Part 90 of the Commission's Rules Governing Extended Implementation Periods,* 8 FCC Rcd. 3975 (1993); Nextel's Petition For Rulemaking, RM 7985 (filed at FCC April 22, 1992)). This signaled the beginning of the end for robust competition between SMR providers, large and small. Instead, from that point forward, the markets for trunked SMR service have been a study in systematic concentration. In the second half of 1994 alone, Nextel announced 21 mergers and acquisitions that promise to more than double its SMR subscriber base. (*See* Report of Economic and Management Consultants International, Inc. (''EMCI''), January 5, 1995, Table 3 at p. 7, a true and correct copy of the report is attached as Exhibit A). More importantly, however, these consolidations will give Nextel a strangle-hold on the 800 MHz spectrum, the life-blood of the SMR industry, in the smaller markets in which Clarks operates and competes.

D. The Nextel Acquisitions

The most significant of Nextel's mergers and acquisitions are those involving OneComm, Dial Page and Motorola. Upon consummation of its proposed agreement with Motorola, Nextel will acquire all of Motorola's 800 MHz SMR systems and the right to manage Motorola's 900 MHz SMR systems. In doing so, Nextel will have effectively disarmed the nation's second largest SMR operator and Nextel's single largest competitor.[5]

Nextel's mergers with OneComm and Dial Page will have a similar, and perhaps greater, anticompetitive effect. OneComm and Dial Page each are operators of sizeable trunked SMR systems that presently compete with Nextel in numerous markets in 16 western and 12 southeastern states, respectively. The Nextel Acquisitions, therefore, will lessen existing competition in the markets for trunked SMR service within these states. In addition, however, Nextel's mergers with OneComm and Dial Page will give Nextel a strangle-hold over future competition in these markets. Indeed, by virtue of the FCC waiver, OneComm and Dial Page have accumulated system licenses pursuant to which they control virtually *every* available channel in the 800 MHz spectrum. (See Clarks' Opposition Comments to the FCC, October 18, 1994, File Nos. 90335, 90334). Neither OneComm nor Dial Page have any present need for these large blocks of channels in these states, and have ''warehoused'' these channels. Neither OneComm nor Dial Page is required to build out its facilities for five years. See *Extended Implementation Periods,* 8 FCC Rcd. 3975 (1993); Letter to *David E. Weisman,* 8 FCC Rcd. 143–144–45 (1993).[6]

In short, the Nextel Acquisitions will give Nextel a dominant share of both constructed and unconstructed facilities in the 800 MHz spectrum throughout the country, including some of the largest metropolitan markets. As a result, Nextel will control present and future competition in this market through use and nonuse of the built-out and warehoused capacity.

E. The Action and Proposed Final Judgment

The Justice Department commenced this Action on October 27, 1994 to address the cumulative anticompetitive effects of the Nextel Acquisitions. Although Nextel and Motorola are the

[3] Additional 800 MHz channels are, in theory, available in some cities for SMR trunked service use through ''intercategory sharing'' of capacity with various private systems. Most private systems, however, utilize virtually all of the capacity on their allocated channels. Accordingly, these systems are unwilling or unable to participate in ''intercategory sharing'' of their 800 MHz capacity. (*See* CIS at p. 5, n.1.)

[4] To limited extent, a similar service is provided in the 220 MHz band in selected areas.

[5] Moreover, by virtue of a contemporaneously executed equipment supply agreement between Nextel and Motorola, Motorola will supply Nextel, on an exclusive basis, with digital equipment to build out all of the 800 MHz channels it will obtain. By doing so, Motorola has essentially foreclosed a significant amount of competition in the SMR equipment market in which it currently holds a dominant (58%) share. (*See* EMCI Report, Ex. A at Figure 5) This is particularly so where the future SMR equipment market lies primarily in the build out of the 800 MHz channels. *See generally United States* v. *General Dynamics Corp.,* 415 U.S. 486 (1974) (in markets characterized by long term performance, ability to meet future demand rather than past performance is the best measure of a company's ability to compete in the relevant market. This concentration of market power in the hands of Motorola threatens to abruptly reverse the trend of decreasing equipment prices. (*See* EMCI Report, Ex. A at Figure 6).

[6] This transfer of licenses to Nextel to operate such facilities prior to their completion and construction, in apparent violation of 47 CFR 90.609(b) is the subject of a separate petition filed by Clarks before the FCC.

only named Defendants, the proposed Final Judgment expressly purports to ''*resolve issues with respect to . . . proposed mergers and acquisitions between Nextel, OneComm Corporation and Dial Page, Inc.*''[7] (Final Judgment, VIII.B.) (emphasis supplied).

The gravamen of the Action is that the Nextel Acquisitions would have the cumulative effect of ''eliminating all but a few suppliers of trunked SMR services in a number of cities in the United States.'' (CIS at p. 11). By way of illustration, the Justice Department described the effect of the Nextel Acquisitions in the 15 Select Cities in which Nextel would control virtually all of the SMR spectrum. On October 27, 1994, the parties to the Action executed the proposed Final Judgment, whereby Nextel/Motorola would divest itself only of ownership, control or management of their 900 MHz channels in each of the 15 Selected cities.

Analysis

The Justice Department commenced this Action because it determined that the Nextel Acquisitions violated Section 7 of the Clayton Act in three ways: (1) By substantially lessening competition between the Nextel and Motorola, the industry's two largest providers of trunked SMR service; (2) by substantially lessening competition generally in the sale of trunked SMR service; and (3) by inhibiting the deployment of alternative technologies. (Complaint at ¶ 43). Absent intervention, the Justice Department determined that Nextel's dominance would give it the ability ''to raise prices and reduce the quality or quantity of [trunked SMR] service.'' (*Id.* at ¶ 25; CIS at p. 12–13).

In proposing this Final Judgment, the Justice Department contends that:

> The risk to competition posed by the transaction would be substantially eliminated by the relief provided in the proposed Final Judgment which will ensure that alternative trunked SMR service providers will be available in *all the relevant geographic markets.*

(CIS at p. 10) (emphasis added).

In fact, however, the proposed Final Judgment does not eliminate the risk to competition in ''all,'' or even most, relevant markets. Any arguable remedial effect that the proposed Final Judgment might have on the trunked SMR service market is limited to the 15 Select Cities in which 900 MHz frequency divestiture was ordered. The proposed Final Judgment does not remedy the anticompetitive effect of the Nextel Acquisition on smaller markets in which SMR trunked service is licensed exclusively on channels in the 800 MHz spectrum. Quite the contrary, the proposed Final Judgment blesses monopolistic concentration in these small markets.

The unambiguous mandate of the Clayton Act requires that the proposed Final Judgment protect competition in all SMR markets, not simply those within the 15 Select Cities. Because it fails to comply with this mandate, entry of the proposed Final Judgment cannot be in the public interest.

I. The Public Interest and Applicable Standard of Review

It is well settled that the ''public interest,'' within the meaning of the Tunney Act, lies in the enforcement of the antitrust laws designed to preserve ''free and unfettered competition as the rule of trade.'' *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 149 (D.D.C. 1982) *aff'd, sub nom Maryland* v. *United States*, 460 U.S. 1001 (1983)[8] (quoting *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4 (1958). This Court need not unquestioningly accept the proposed decree proffered by the Justice Department as in the ''public interest'' simply because it ''somehow, and however inadequately, deals with the antitrust * * * problems implicated in the lawsuit.'' *AT&T*, 552 F. Supp. at 151. Rather, any consent decree must ''render impotent the monopoly power found to be in violation of the [antitrust laws and] * * * must leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place.'' *Id.* at 150 (quoting 2 P. Areeda & D. Turner, *Antitrust Laws* section 327 (1978)).

Section 7 of the Clayton Act, on which this Action is premised, prohibits acquisitions where the effect would be to substantially ''lessen competition or tend to create a monopoly.'' 15 U.S.C.A. § 18. More importantly, the Clayton Act extends the protection of this Section to ''any line of commerce or * * * any activity effecting commerce *in any section of the country*.'' *Id.* (emphasis added). Indeed, the United States Supreme Court has held that ''if anticompetitive effects of a merger are probable in ''any'' significant market, the merger—at least to that extent—is proscribed'' by Section 7. *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 336–37 (1962). *See also RSR Corp.* v. *Federal Trade Com.*, 602 F.2d 1317, 1323 (9th Cir. 1979) *cert. denied*, 445 U.S. 927 (1980). The anticompetitive effects of a merger in one market cannot be ignored simply because they are offset by procompetitive effects in another market. *Id.* at 1325 (citing *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 370–71 (1973). Under this standard, the proposed Final Judgment is not in the public interest.

II. The Nextel Acquisitions Will Give Nextel a Dominant Market Share in the Smaller Markets in which Operators Like Clarks Operate and Compete

Although ignored or forsaken by the Justice Department, competition in the smaller markets in which Clarks operates and competes will be severely and adversely impacted by the Nextel Acquisitions. In *United States* v. *Philadelphia Nat'l Bank*, 374 U.S. 321, 370–71 (1963), The Supreme Court defined the appropriate analysis of a merger under Section 7 of the Clayton Act:

> [A] merger which produces a firm controlling an undue percentage share of the relevant market, and results in a significant increase in the concentration of firms in that market is so inherently likely to lessen competition substantially that it must be enjoined in the absence of evidence clearly showing that the merger is not likely to have such anticompetitive effects.

Id. at 363. The Court expanded the rule of presumptive illegality in *United States* v. *Aluminum Co. of America*, 377 U.S. 271, 279 (1964) when it held that ''even slight increases in concentration'' which resulted from horizontal acquisition would be presumed illegal if the acquisition involved markets where the ''concentration was already great.'' Applying this analysis to the smaller markets, the Nextel Acquisition, without further proscription, would have the precise anticompetitive effects that mandate an injunction.

A. The Relevant Market

The Justice Department expressly defined the relevant product and geographic markets in analyzing the effect of the Nextel Acquisitions in the 15 Select Cities. This same analysis, with a slight modification, is adequate for use in defining the relevant markets in the areas ignored by the Justice Department.

The Justice Department defined the relevant product market accordingly:

> The product market consists of trunked SMR service in the 800 MHz, 900 MHz and 220 MHz bands. Conventional dispatch service is not a substitute for trunked SMR service because it affords lesser privacy and lower reliability. Cellular telephone service is not a substitute because it is significantly

[7] Indeed, for purposes of the proposed Final Judgment, Nextel, by definition, includes OneComm and Dial Page. (*See* proposed Final Judgment, II (Definitions) E and J).

[8] Citations to later proceedings omitted.

more expensive than SMR service, is significantly more difficult for customers to restrict communications to a defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis.

(CIS at p. 6). For purposes of analyzing these effects in markets *outside* these 15 Select Cities, however, the relevant product market must be defined more narrowly. There are no SMR 900 MHz licenses in the smaller markets in which SMR operators like Clarks operate. Moreover, as the Justice Department concedes, 220 MHz frequency, to the extent it becomes available and is constructed in these smaller markets, ''will require some time to gain commercial acceptance and to effect competition for the 800 MHz . . . service.'' (Complaint at ¶ 16).[9] Accordingly, the relevant product market in which Clarks competes is presently (and for the foreseeable future) limited to the 800 MHz frequency.[10]

The Justice Department's geographic market definition as each license area in which, the FCC has authorized the provision of SMR service (generally, a service area with a radius of 35 miles) is, generally, adequate. Given, however, that the product market is defined by availability of channel frequency within a Service Area *and* in adjoining Service Areas, under the FCC's station separation and short spacing rules, and their present effect on the Clarks markets, it is more appropriate to expand the geographic radius from 35 to 70 miles. *See* 47 CFR 90.621(b). This 70 mile radius provides the most accurate measure of the geographic limits (and expandability) of frequency availability, predatory licensing practices, propagation and customer range, and is especially applicable in the 16 Western States markets where Nextel proposes to merge with OneComm a given SMR Service Area.[11]

B. As a Result of the Nextel Acquisition, Nextel Will Dominate the 800 MHz Trunked SMR Service Market

Based on these definitions, Nextel would own, manage or control a staggering percentage of the SMR market within the following smaller markets in which Clarks operates and competes:

Market	800 MHz capacity	Nextel owned	Percent Nextel
Columbia, SC	1733	1375	79
Sunnyside, WA	3136	2897	92
Covington, LA	2126	1626	76
Washington, IL	1495	1038	69
Kosciusko, MS	1003	588	59
Idaho Falls, ID	1376	882	64
Enid, OK	3109	2904	93

See SMR Won-7 Market Frequency Study, a true and correct copy of which is attached as Ex. B. These post-acquisition market shares are presumptively illegal under Section 7 of the Clayton Act.[12] *See, e.g., United States* v. *Philadelphia National Bank,* 374 U.S. 321, 370–71 (1962) (post merger market share 33%, concentration ratio of five largest competitors 78%); *United States* v. *Aluminum Co. of America,* 377 U.S. 271, 279 (1964) (post merger market share 29%, concentration ratio of four largest competitors 76%); *RSR Corp.* v. *Federal Trade Com.,* 602 F.2d at 1323 (post merger market share 15%, concentration ratio of three largest competitors 65%); *Liggett & Myers* v. *FTC,* 567 F.2d 1273 (4th Cir. 1977) (post merger market share 19%, concentration ratio of four largest competitors 54%); *FTC* v. *Warner Communications, Inc.,* 742 F.2d 1156 (9th Cir. 1984) (post merger market share 26%, concentration ratio of four largest competitors 67%); *United States* v. *Rockford Memorial Corp.,* 898 F.2d 1278 (7th Cir. 1990) (post merger market share 64%, concentration ratio of three largest competitors 90%) *cert. denied* 498 US 920 (1990). Nextel's post-merger market share in each of these markets also approaches or exceeds the concentrated market share of the largest three, four and five competitors in the referenced cases. Accordingly, the presumptive illegality of the Nextel Acquisitions is a foregone conclusion.[13]

Similarly, the Herfindahl-Hirschman Index (''HHI'') as a measure of ''pre'' and ''post'' Nextel Acquisitions concentration in these referenced markets also supports a finding that the Nextel Acquisitions, without further proscription, are presumptively illegal.[14] With respect to the 15 Select Cities, the Justice Department determined that the HHI of market concentration was already greater than 2200 and that the Nextel-Motorola transaction alone would increase the HHI in these markets by more than 1400 points. (Complaint at ¶ 25). These figures pale in comparison to the ''pre'' and ''post'' Nextel Acquisitions indices in some of smaller markets in which SMR operators like Clarks operate and compete. In Sunnyside, Washington, the post-Acquisition HHI will increase by more than 2,141, from 6,464 to 8,606; in Idaho Falls, Idaho, the post-Acquisition HHI will increase by more than 1,317, from 2,733 to 4,051; in Kosciusko, Mississippi, the post-Acquisition HHI will increase by more than 534, from 1,033 to 1,568; and in Enid, Oklahoma, the post-Acquisition HHI would increase by more than 752, from 8,476 to 9,222. These staggering figures vastly exceed those cited by the Justice Department in the 15 Select Cities, and plainly mandate further proscription of the Nextel Acquisitions.

III. The Proposed Final Judgment Does Nothing To Remedy the Substantial Anticompetitive Effects of the Nextel Acquisitions in the Smaller Markets in Which Clarks Operates and Competes

Having demonstrated the presumptive illegality of the Nextel Acquisitions, the burden shifts to the parties thereto to

[9] There are substantial differences in propagation, technology, bandwidth, and customer use which distinguish the 800 MHz SMR market from the 900 MHz and 220 MHz markets. Most importantly, 900 MHz and 220 MHz equipment is not compatible with traditional 800 MHz SMR equipment and cannot be trunked into 800 MHz systems. Accordingly, the equipment in the different bands limits an operator and the customer to the spectrum for which the equipment is manufactured.

[10] In a market defined by scarce or finite resources, capacity to meet future, rather than present demand is the appropriate measure of market share. *See generally United States v. General Dynamics Corp.,* 415 U.S. 486 (1974).

[11] In any case, the expanded radius did not result in any spill-over into any of the 50 largest markets in which the availability of 900 MHz frequency capacity must be considered.

[12] Most of those market shares exceed the 70% threshold figure traditionally used to find monopoly power under the Sherman Act. *See Caldwell* v. *American Basketball Association,* 825 F. Supp. 558, 575 (S.D.N.Y. 1993) (noting courts typically find monopoly power where more than 70% of the market is possessed by the defendant); *see also Hiland Dairy, Inc.* v. Kroger Co., 402 F.2d 968, 974 & n. 6 (8th Cir. 1968) (reviewing several anti-trust cases and noting that percentages greater than 70% generally are found to constitute monopoly power), *cert. denied,* 395 U.S. 961 (1969).

[13] This dominant market share is not a phenomenon existing only in these rural markets. On the contrary, these shares reflect the results of Nextel's systematic and concerted attempt to control 800 MHz capacity across the country. By virtue of these acquisitions, Nextel will own or control between 67 and 95% of the total available 800 MHz spectrum allocated for trunked SMR service throughout the following states: Washington, Idaho, Oregon, Utah, Colorado, Georgia, Louisiana, New Jersey, Oklahoma, and South Carolina—all states in which Clarks presently operates. *See* Declarations of William Holesworth, attached hereto as Ex. C.

[14] The HHI takes into account the relative size and distribution of competitors within a relevant market (Complaint Appendix A). The HHI approaches zero when a market consists of a large number of firms of relatively equal size, or can reach 10,000 in the case of pure monopoly power. (*Id.*) Markets in which the HHI exceeds 1000 are moderately concentrated. (*Id.*) Markets in which HHI exceeds 1800 are considered concentrated. (*Id.*) Transactions that increase the HHI by more than *100 points* in moderately concentrated and concentrated markets ''*presumptively raised antitrust concerns.*'' (*Id.*) (Emphasis supplied).

rebut this presumption with non-statistical evidence to demonstrate that the Nextel Acquisitions will not reduce competition. In this case, however, the relative size of the merging parties, the trend toward market concentration and absolute barriers to market entry plainly *aggravate* rather than ameliorate the monopolistic market share that will result upon the consummation of the Nextel Acquisition.

The most direct anticompetitive effect of any merger is the elimination of competition between the merging entities. Accordingly, special attention must be paid to the relative size and number of parties to the transaction. *United States* v. *M.P.M. Inc.,* 397 F. Supp. 78 (D. Colo. 1975). In this case, each of the parties to the Nextel Acquisitions have substantial channel holdings. *Indeed, Nextel and Motorola are the two largest competitors in the industry.* An acquisition involving *two* dominant firms, the effect of which accelerates a trend to *oligopoly* in the market, provides a basis to find a violation of Section 7 of the Clayton Act. *United States* v. *First National State Bancorporation,* 479 F. Supp. 1339 (D.N.J. 1979). The merger of *three or four* dominant firms which results in *monopoly* power within the market mandates such a finding. This is particularly so where the recent trend within the SMR industry has been toward consolidation and concentration. *See generally* Department of Justice and Federal Trade Commission ''Horizontal Merger Guidelines'' (hereinafter ''Guidelines'') § 1.521 (April 7, 1992)

More importantly, this Court must consider the extreme barriers to entry into the SMR markets. *United States* v. *Black and Decker Mfg. Co.,* 430 F. Supp. 729 (D. Md. 1976) (substantial entry barriers to market to be considered in action brought under Clayton Section 7 to enjoin merger); *See also* Guidelines, §§ 1.522, 2.2 and 3.0. High entry barriers into the market signal the potential that a particular merger may potentially impair competition. *See Fruehauf Corp.* v. *Federal Trade Com.,* 603 F.2d 345 (2nd Cir. 1979). SMR operators need spectrum to enter or expand within a market. No such frequency is available in the smaller urban and rural areas in which SMR operators like Clarks operate and compete. The Justice Department has acknowledged this. (Complaint at ¶ 14.) Upon consummation of the Nextel Acquisition, nearly all available frequency in these markets will be controlled (and warehoused) by Nextel. The result is an *absolute* entry barrier that prevents new competition in the trunked 800 MHz market.

Moreover, by mere *non-use* of the warehoused frequency it will control, Nextel will prevent existing SMR operators like Clarks from strengthening their competitive position in the respective markets. Unable to obtain additional frequencies, these operators cannot expand their systems to accommodate additional subscribers or expand their geographic coverage area of their systems.[15] Overcrowding on these systems will result in ''dropped calls'' and inhibit operators like Clarks from adequately serving their *existing* clients.[16] Without access to this warehoused capacity, therefore, independent operators, to the extent they can survive, will be essentially frozen in place. At the same time, Nextel will have the luxury of adding channels to its systems in these small markets only as needed, while its competition, starved for capacity, weakens or disappears. Thereafter, Nextel can build out the remaining channels to meet the remaining new and spill-over demand. Indeed, Nextel's prices already exceed those charged by independent operators. *See* letter from Fred Goodwin to Raymond J. Kimball dated January 4, 1995, attached hereto as Ex. F. A monopoly share of the market will only exacerbate that disparity.

Finally, Nextel's dominance over the available capacity will retard the growth and development of technological innovations in the SMR market; namely co-operatives and alliances such as Northwest Wireless Network through which independent operators can provide maximum coverage area.

In short, the proposed Final Judgment does not safeguard competition in these smaller markets in which Clarks operates and competes. Quite the contrary, for these markets the proposed Final Judgment offers lessened competition between the merging entities, lessened competition in the market in general, increased prices, decreased service and disincentive to innovate. Ironically, these are the same anticompetitive effects that the Justice Department so zealously sought to prevent, albeit only in the 15 Select Cities.

IV. Any Procompetive Impact on Competition In the Cellular Market Can Have No Bearing on this Action

The only ''pro-competitive'' shading that Justice Department can offer in support of the Final Judgment is that the proposed Final Judgment could possibly benefit competition in the cellular market. For that reason, the proposed Final Judgment was necessarily limited so as not to inhibit Nextel's intention or ability to offer wide-area digital SMR service using the newly unveiled Motorola Integrated Radio System (''MIRS''). (CIS at pp. 17–18).[17] This proposed rationale is misplace, suspect and wholly inappropriate.

First, as set forth above, the anticompetitive effects of these Nextel Acquisitions in one market cannot be ignored simply because they are offset by procompetive effects in another market. *RSR Corp.* v. *Federal Trade Com.,* 602 F.2d at 1325 (citing *United States* v. *Philadelphia National Bank,* 374 U.S. 321, 370–71 (1973). This is particularly so where, as in this case, the Justice Department has expressly stated that the two markets, SMR and cellular, do not complete and fill different market niches. In any case, whatever Nextel's stated objective is for embarking on its course of mergers, whether true or not, has no bearing in this action. Indeed, it is axiomatic that the ''circumstances leading to an acquisition are irrelevant in determining whether § 7 has been violated.'' *United States* v. *Phillips Petroleum Co.,* 367 F. Supp. 1226, 1258 (C.D. Cal. 1973). The sole focus under § 7 is the effect on competition of an acquisition. *Id.*

Moreover, although Nextel has apparently convinced the Justice Department that Motorola's MIRS equipment will enable it to compete with cellular telephone service, Motorola, itself recently has doubt over whether this even possible. Motorola admitted that its MIRS technology will not compete with cellular:

> * * * Motorola, Inc.'s officials last week stressed the need to adjust their marketing strategy for ESMR technology. *The greatest marketing change would attempt to alter the perception that ESMRs would soon be a third cellular competitor, focusing instead on integrated wireless services for dispatch,* said Lise Farmer, spokeswoman for the Motorola division supplying * * * MIRS technology

[15] *See* the Declarations of William Holesworth, Richard Hafla and Steven G. Earl, independent SMR operators in Washington and Idaho, attached hereto as Exs. C, D and E, respectively.

[16] See Declarations of Rick Hafla, Steven T. Earl attached hereto as Exs. D and E, respectively.

[17] The Justice Department acknowledged that it considered an alternative to the proposed Final Judgment which would have limited the number 800 MHz channels that Nextel could hold in each ''affected city.'' (CIS at p. 17) This alternative was purportedly rejected because the Justice Department was satisfied that the relief it had obtained relating to 900 MHz divestiture adequately address harm to competition. (*Id.*) Again, however 900 MHz divestiture was not ordered beyond outside of the 15 Select Cities, nor possible in any market outside of the top 50 urban markets. Accordingly, this ''relief'' was neither intended nor considered to address the anticompetitive effect on the small market in which Clarks operates.

to Nextel * * * and its potential partners, OneComm Corp. and Dial Page, Inc.

Robert Pass: ''They just started talking about being a third cellular carrier * * * but they didn't have technology that was superior to cellular.'' [Without superior technology] and if they can't price it well below cellular, then how are they going to [compete with cellular].'' [18]

Finally, any bona fide interest that Nextel may have in experimenting with a digital SMR seamless nationwide network can be accomplished without monopolizing the 800 MHz frequency in any relevant market. By its own admission, Nextel's envisioned digital network requires *no more than* 42 800 MHz channel blocks to assure sufficient capacity for subscriber growth and roaming capacity. (See pleading already submitted to Justice at p. 7). The Nextel Acquisitions, however, would give Nextel control over more channels in the 800 MHz spectrum than it could possibly sue. For example, Nextel stands to obtain blocks of 141 and 233 channels (representing all available capacity) in the areas servicing the towns of Moscow, Idaho, and Lewiston, Idaho, respectively. The aggregate population of these towns is approximately 50,000. This population could not possibly support any system, digital and/or conventional, that could utilize anywhere near this number of channels. (See Petition for Reconsideration and Special Relief, filed October 18, 1994, Exhibit G.) Nextel can simply warehouse the substantial remaining capacity, effectively freezing its competitors in place.

Accordingly, not even Nextel's hyped ''next generation'' of digital SMR service (which independent operators intend to also provide) necessitates approval of a merger which will establish single-provider dominance, once and for all, and eliminate independent competition in the emerging and *still growing* mobile radio markets. Indeed, it seems unnecessary and counterproductive to destroy the market for SMR—a low cost *alternative* to cellular—in small markets simply to enable SMR to compete in the *same* product market *with cellular* on a large scale. This is particularly so where the impact on the public interest of robust competition in all markets is so adversely impacted.

[18] Land Mobile Radio News, Vol. 48, No. 47, p. 1, (December 2, 1994). (Emphasis and brackets in original.) *See also* ''For Nextel, '94 Was Best of Times and Worst of Times,'' Wall Street Journal, Jan. 3, 1995, p. 14, *See* Exhibit H.

V. The Public Interest Requires That the Proposed Final Judgment Be Revised To Remedy the Anticompetitive Effects of the Nextel Acquisitions in Every Market

There is substantial room to fashion a solution which meet the needs of all parties while preserving the precepts of fair and even-handed competition. The proposed Final Judgment should be revised to provide for partial divestiture of 800 MHz channels in every market in which the Nextel Acquisitions would result in Nextel's ownership or control of more channels than is necessary to construct its planned digital network. By making these remaining frequencies available to existing operators for expansion, the Final Judgment will restore and foster a competitive balance in the SMR service industry over the short and long terms.

Dated: January 9, 1995.

Respectfully submitted,

Raymond J. Kimball,

Ross & Hardies, Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing, Inc. and Earl's Wireless Communications, Total Communications, Communications Center, Inc., Leflore Communications, Inc.

Attachment C

United States Department of Justice,
Antitrust Division,
555 4th Street N.W.,
Washington, D.C. 20002.

January 6, 1995.

Ref: Civil Action No. 1:94CV02331, United States vs. Motorola and Nextel

Gentlemen: Please find enclosed the comments of the Communications Center related to the above captioned matter. Please contact me if you have any questions or if I can be of assistance.

Yours truly,

Walter Gallinghouse,

Owner/President.

Comments

United States vs. Motorola & Nextel Communications, Civil Action No. 1:94CV02331

Submitted To: United States Department of Justice, Antitrust Division, January 6, 1995

Submitted by: Communications Center, Inc., Covington, Louisiana

I. Introduction

On November 8, 1994, the Final Judgment in the case of the United States of America, Plaintiff versus Motorola, Inc. and Nextel Communications, Inc, Defendants, was published in the Federal Register under Civil Action Number 94–2331. Included within this proceeding was a Competitive Impact Statement, herein referred to as CIS, under case Number 1:94CV02331, Judge Thomas F. Hogan, Antitrust, 10/27/94.

Section V of the CIS provides, ''any person who wishes to comment should do so within (60 days) of the date of publication of the CIS in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments.''

The Competitive Impact Statement and Final Judgment have been reviewed by a large number of specialized mobile radio (SMR) operators who will be directly effected by the Nextel/Motorola consortium that has gained control of the majority of the 800 Mhz radio spectrum nationwide. Pursuant to the provisions of section V of the CIS, the following comments are hereby submitted.

Upon reviewing the information provided herein, it should be obvious that because of the highly technical and complex nature of the radio industry and FCC regulatory policies, the United States has overlooked anticompetitive consequences of the ongoing Nextel/Motorola activities as related to the 800 trunked SMR service. If the Judgment is approved and the current trend continues, Nextel/Motorola will have monopolistic control over the 800 Mhz SMR market nationwide, leading to the closure of many small businesses, loss of services to the public, higher rates for the consumers, and restraint of trade.

The United States properly identified an antitrust problem with the Motorola/Nextel control of the spectrum and it sought a prompt solution by using the consent decree. The Judgment was based on information contained within the Competitive Impact Statement. In the opinion of operators who have extensive experience in the two-way radio and 800 MHz SMR industry, the CIS is seriously flawed.

Based upon the reasons in these comments, it is respectfully requested that the United States withdraw its consent to the Judgment and conduct a more thorough investigation to properly assess the anticompetitive impact on the trunked 800 MHz SMR industry by the actions of Nextel/Motorola.

II. Background

The Communications Center, Inc. is filing comments in this matter, submitted by the company's president Walter Gallinghouse.

The Communications Center, Inc. is a Louisiana corporation providing mobile radio communications equipment sales and service, UHF community repeater rental, and 800 Mhz SMR (Specialized Mobile Radio) service. The company was incorporated in 1982. It has been under current ownership since 1986.

Offices are located in Covington, on the northshore of Lake Ponchartrain, approximately 30 miles from New Orleans. The northshore area can be considered a suburb of New Orleans. According to the Greater New Orleans Expressway Commission, over 8,000 commuters cross the Causeway from the northshore to New Orleans on a daily basis.

The Communications Center's principal business territory includes St. Tammany, Tangipahoa and Washington parishes. Repeater coverage areas extend customer usage into adjoining parishes of Louisiana and Mississippi. The SMR service area

includes most of metropolitan New Orleans, a market within the top 50 cities nationwide. The business serves approximately 500 customers, which includes business, industry, government and public safety accounts.

The Communications Center operates five sites within the three parish area with 18 channels of 800 MHz SMR and 12 UHF (450–470 MHz) relay stations. The Company is an authorized dealer for a number of manufacturers, including Ericsson-General Electric, Maxon, Yaesu, Uniden and Shinwa.

Walter Gallinghouse has fifteen years of experience in the land mobile radio industry, with a background of 30 years in radio communications. He is the former sales director of Electrocom, Inc. one of the largest two-way dealers and SMR operators in the New Orleans market. Under his leadership Electrocom was among the top ten dealers in the nation for Standard Communications for five consecutive years. He also pioneered development of the SMR operations in St. Tammany Parish (Abita Springs and Lacombe). In 1986 he left Electrocom to open his own business in west St. Tammany.

Walter Gallinghouse is also a director and secretary of SMR WON, a trade association, incorporated in Washington, DC. SMR WON has approximately 100 members, including SMR operators and two-way radio equipment manufacturers.

The Communications Center manages and maintains SMR systems using both General Electric Marc V/VE and Johnson LTR protocols. The company not only sells SMR services to the public, it also sells SMR airtime to other two-way radio dealers who are free to resell at their own rates.

Resellers of GE Marc V airtime include Saber Communications, an Alabama corporation based in Mobile that is a wholly owned subsidiary of Nextel. The GE Marc V airtime resale arrangement was assumed by Saber in its acquisition of the SMR assets of Electrocom. Saber has however refused to resell service on the LTR systems it acquired from other dealers in the market. Saber's Vice President of operations said *''It is Nextel's policy that they do not resell airtime on any type system.''* This is evidence of Nextel's intent to control the 800 MHz SMR marketplace. This issue is addressed in more detail at another point in these comments.

III. 800 MHz SMR History and the New Orleans Market

Prior to the acquisition of SMR assets by Nextel and affiliates (including Coastel, Saber Communications, Motorola and Dial Page), the New Orleans market had vigorous competition with a number of SMR service providers using four manufacturers protocols (General Electric, Motorola, Johnson, LTR and RCA Tactel). Equipment for use on these systems was sold by a number of competing companies.

At the end of 1993 the Communications Center and other SMR operators were contacted by several prospective buyers interested in acquiring their SMR assets. The buyers used high pressure tactics, advising dealers to ''avoid missing the window of opportunity.'' Many of the companies entered into agreements to sell their 800 SMR systems to Saber Communications, Coastel Communications or Dial Page.

The FCC had rules in place that would have prohibited these acquisitions. Presumably the rules were originally designed to prevent one company from obtaining a concentration of channels in any market. With the intent of promoting the development of new technology, the FCC waived its regulations upon request of Fleet Call and Nextel.

The seed of wide area communications was firmly planted by Fleet Call and Nextel. The concept was nurtured by the FCC in broad acceptance that Nextel's proposals promised a wide area digital communications system. Unfortunately, anticipating the buyouts by Nextel and affiliates, speculators seized the opportunity to buy and ''flip'' channels for quick profits. This quickly led to licensing mills that duped the public out of millions of dollars. It also led to the warehousing of the radio spectrum for the purposes of speculation. The end result was the licensing of all 800 Mhz frequencies throughout the nation, leaving none for expansion of systems owned by legitimate operators who had no affiliation with Nextel.

The FCC was inundated by license applications in the wake of the acquisitions. With some 40,000 applications pending, the FCC refused to accept any additional applications and it froze all pending applications.

With the FCC's freeze, the business plans of legitimate operators have been damaged, public use of the spectrum has been denied and the 800 MHz SMR industry is in turmoil. To compound matters, the FCC has proposed the auctioning of 800 MHz spectrum (which is already licensed) on a Market Trading Area (MTA) basis in direct response to the Nextel's request for a more flexible wide area licensing plan. Under such plan, small operators will be virtually excluded from the bid process and denied further expansion.

The acquisitions of SMR systems in the New Orleans market have led to an excessive number of channels being controlled by Nextel and affiliates.

IV. Comments—Flaws in the Justice Department Complaint and CIS

A. Arbitrary Selection of Markets Affected by Nextel Motorola Activities

The CIS does not address the competitive impact in all the geographic markets that are actually affected by the Motorola/Nextel activities. It is restricted to 15 selected cities, ignoring the balance of the nation where excessive concentrations actually exist. The Nextel/Motorola transactions, including the mergers, acquisitions and attempts to acquire the entire 800 Mhz SMR, *are likely to reduce competition in most cities and counties throughout the entire nation.*

The ability of Nextel to warehouse the majority of frequencies nationwide for as long as five years under extended construction deadlines (allowed by the FCC upon request of Nextel and affiliates), will prevent the licensing of competing operators who will sell products manufactured by companies other than Motorola. With Nextel's control over this spectrum, competing companies have no systems to sell on, and manufacturers competing with Motorola will have no outlet for their 800 Mhz products.

The consequences are a restraint of trade, the loss of jobs and probable closure of many businesses. Although Nextel & Motorola have claimed they will build out the top 50 cities within a few years, during this period the public will be deprived of the valuable resources of the 800 spectrum. The vast population outside the top 50 markets may not see the build outs for many years, and it is questionable if some areas will ever receive the digital service described by Nextel. Existing radio dealers will be frozen in place with no ability to expand their SMR services to the public. Rural areas will be seriously impacted.

B. Contradictions

The CIS was based upon the concept that Nextel would be a major competitor in the cellular market. According to a recent article in the Wall Street Journal ''Nextel has all but abandoned ambitions to become a cellular titan any time soon. It will get back to the basics, jazzing up the dispatch services''. This is confirmed in public statements by Motorola: ''the greatest marketing change would attempt to alter the perceptions that ESMRs would soon be a third cellular competitor, focusing instead on the integrated wireless services for dispatch, said Lisa Farmer, spokeswoman for the Motorola division supplying * * * MIRs technology to Nextel * * * and its potential partners, OneComm Corp. and Dial Page, Inc. Just three months earlier, August 31, 1994, headlines read ''Nextel Pins Hopes for Cellular Riches Nationwide on Lowly Two-Way Dispatch Systems''.

The Justice Department rejected litigation seeking to limit the number of 800 MHz channels because ''the Department did not want to inhibit Nextel's ability to offer cellular telephone service''. When describing the Product Market, the Department says ''Cellular telephone is not a substitute because it is significantly more expensive than SMR service * * * and because it cannot be provided on a one-to-many dispatch basis.'' Further, ''cellular telephone companies ''reuse'' spectrum by dividing a licensed service area into ''cells'' and reusing a frequency within the same system. Several cells would have to be used to transmit a communication to reach a group of vehicles; consequently, this method of operation is not well suited for SMR customers who need the capability of sending frequent, short messages over a broad area to one or many recipients.''

The Motorola ''MIRS'' technology, according to the FCC multi site licensing scheme with close spacing, is based on a ''cell'' concept with low antenna heights. Accordingly this ''is not well suited for SMR customers'' because of the need to transmit over multiple cells.

These contradictions and changes in marketing strategies necessarily questions the planning, forethought and intent of the 800 MHz channel acquisition frenzy by Nextel and affiliates. The FCC waived the very regulations that would have prevented any one company from obtaining an

anticompetitive concentration of channels in any market. Now we have a situation where Nextel is not focusing on being a major competitor with cellular, its ''MIRS'' cellular style technology is ''not well suited'' for SMR, and it holds an excessive concentration of channels that have been providing the public low cost mobile radio communications services. Considering the enormous amounts of money that were paid for the channel acquisitions, the capital requirements for the future buildout for the system, one can generally assume that if Nextel survives and builds the system, the consumer will bear the burden in higher cost and less effective service. In the meantime, using FCC waivers that granted extended construction periods of up to five years, the public will have been deprived of the use of the radio spectrum.

C. 800 MHz SMR is a Distinct Product Market

220 MHz, 800 MHz and 900 MHz SMR should not be considered the same for the definition of product market. 220 MHz SMR and 900 MHz SMR are not a substitute for 800 MHz SMR service. There are no operational 200 MHz or 900 MHz SMR systems that can compete with the existing mature 800 MHz service which has coverage throughout most of the nation. There are significant technical differences in the three bands. Each band has distinctive operational characteristics that make one more suitable than the other in certain applications.

800 MHz SMR is the premium spectrum. It has a short wave length, and on a lesser degree than 900 MHz, it is also absorbed by dense foliage. The line of site range and limited periods of interference from extended signal propagation have made it the mainstay of the two-way radio industry. The propagation characteristics and FCC channel spacing scheme make it an ideal spectrum for the majority of two-way radio dispatch and interconnect services.

900 MHz has a very short wavelength (nearly microwave) with poor performance in areas with dense foliage. The range slightly less than 800 MHz. It is more particularly suited to large cities. Because of the FCC's method of channel assignments with close spaced frequencies, it has not been widely accepted by the industry. The cost of system construction is much higher because of the compensation for losses in close spaced antenna combiners (higher losses of combiner, requires higher input power, hence higher cost power amplifiers; as a substitute for combiners, separate antennas and feedlines for repeater transmitters can be used, but at a very high cost).

The modulation bandwidth on 900 MHz is narrower than 800 MHz, and therefore the audio quality and range is not as good as 800 MHz and 220 MHz.

220 MHz has greater range than 800 and 900 MHz and is more suited to rural markets. It is more susceptible than 800 and 900 MHz to interference caused by extended propagation during changes in atmospheric conditions. Because of the FCC's past and present 220 MHz licensing process, the development of this band will be slow. It will take some time to determine the band's effectiveness, particularly in major markets.

Because of the FCC regulatory framework and the high cost of buildout of 220 and 900, it is unlikely that systems will be established on 220 MHz and 900 MHz spectrum within a reasonable period of time. Considering the lack of available systems in adjoining markets for networking between dealers, 900 MHz and 220 cannot be substituted for 800 MHz. The United States supports this in its statements. ''At present, however, the only constructed 220 MHz SMR systems are in California. * * * 220 MHz service will require time to gain commercial acceptance.'' ''SMR service in the 220 band will be a substitute for SMR service in 800 MHz and 900 MHz at some point in the future. * * * Further 220 MHz service will require some time to gain commercial acceptance, just as 800 MHz and 900 MHz services required when they were first implemented.''

The United States refers to 220 MHz as a future service, and the comments about 900 MHz indicate 900 MHz SMR has not been widely accepted. Thus, as a practical matter, it is not appropriate to speculate on the acceptance of 220 or 900 and assume they can be substituted for each other. The existing 800 MHz product market is mature and at the present time, it is being substantially affected by the Motorola/Nextel activities.

From the standpoint of products and service, there are a large number of manufacturers providing equipment for operation within the 800 spectrum. This includes fixed stations, switching equipment, system controllers, end user mobiles and portables. Robust competition has existed in equipment sales of all 800 MHz products. 900 MHz SMR has not been widely accepted and product availability is somewhat limited. 220 MHz SMR is relatively new and it is difficult to enter this business because of FCC regulations.

From a product availability standpoint, 800 MHz should be considered a distinct market.

D. CIS Ignores the Importance of 800 MHz SMR

The 800 MHz SMR service is mature industry providing an effective low cost two-way radio service to business, industry and public safety. Competing systems are now in operation covering a large percentage of the United States. Recent technological developments have spurred the development of wide area networking between systems owned by radio dealers in adjoining markets.

The United States has also overlooked the importance of the existing 800 MHz analog dispatch SMR services to business, industry and public safety. It has taken the viewpoint that Nextel will develop more competition for the cellular industry.

When the Justice Department stated it ''did not want to inhibit Nextel's ability to offer cellular telephone service, it effectively condoned the dismantling of the entire 800 MHz SMR analog dispatch service in favor of the desires of the Nextel/Motorola, which includes acquisition of the contiguous 861–865 SMR spectrum. It just so happens that this part of the SMR spectrum is the most heavily loaded with customers because it was the first SMR spectrum to be released by the FCC. If the Department allows the dismantling of this service, it will cause the displacement of hundreds of thousands of radio systems, disruption of the communications of hundreds of thousands of users, and an enormous cost in labor and resources.

E. Damages to the Public Interest Not Fully Examined By CIS

Because there is no other service available with all the existing low cost benefits of 800 MHz SMR, Nextel's acquisitions of existing SMR dispatch systems and customer bases will force the public to replace their equipment. The consumer will have to enter into a new service which will be more expensive and less effective.

While the Nextel/Motorola team decides on its buildout method and schedule, and it is uncertain about its position as being ''the third cellular'' or a wide area dispatch provider, they will have used the FCC's wide area waivers to side-step the original regulations that were designed to prevent the development of monopolies. Instead, they can use the extra freedoms granted by the waivers, increase the cost of service to the public, and drive their competitors out of business.

F. Anti-Competitive Problem Not Solved With Divestiture in Certain Markets

The United States has totally ignored the anti-competitive aspects of the Nextel/Motorola actions in the 800 MHz SMR product market nationwide. On page 17, the United States says, ''It is satisfied that the relief it has obtained relating to 900 MHz frequencies will adequately address the harm to competition alleged in the complaint.''

Although the CIS is relevant because within certain cities Nextel/Motorola holds the majority of channels in 800 MHz and a number of 900 MHz, the divestiture of the 900 channels and 40 800 MHz channels in one market does not solve the problem of the monopolistic control of the 800 MHz product market. Nextel would still control the majority of channels in 800 SMR, inhibiting the ability of independent operators from providing services on non-cellular type systems which use high-elevation base station antennas. These systems are needed to continue to serve the needs of business and industry for trunked 800 MHz that can provide dispatch service over broad coverage areas.

IV. Analysis of New Orleans Market

Using various sources, including a FCC license data base from Interactive Systems (ISI), Washington Radio Reports, frequency monitoring, verifications with system operators, and first hand knowledge, the Communications Center conducted an analysis of the New Orleans market area. The geographic area used was generally in line with the BEA Economic Areas as represented by the US Department of Commerce in the Federal Register (Volume 59, No. 214). The study was completed on January 3, 1995 and it is believed to be a fairly accurate representation of the New Orleans market situation.

The analysis was conducted for 260 800 MHz SMR channels in the FCC channels of 201 through 600. 900 MHz SMR was not

considered. It is believed that 800 MHz SMR should stand alone as a relevant product market because 220 MHz and 900 MHz are not substitutes for 800 MHz SMR. The reasoning is further fully described earlier in this document. In fact, there are no viable 900 MHz or 220 MHz systems in the New Orleans marketplace at this time.

The conclusion can be drawn that after the acquisitions are completed by Nextel of the channels of Dial Page, Saber and Motorola, Nextel and Motorola will have effective control of the New Orleans 800 MHz SMR marketplace.

The study shows the following channel concentration:

	Percent
Nextel & affiliates, 241 channels ..	86.0
Independents, 27 channels	9.5
Unknown, 2 channels	1.0
Other business (Motorola format), 10 channels	3.5

To further determine the effect on competition, an analysis of the principal sales and service providers in the New Orleans market was conducted. These SMR sales and service operators of New Orleans are listed below, followed with their office locations and manufacturers SMR protocol. A copy of the telephone directory yellow pages is attached (Exhibit A,B) which list some of the two-way radio dealers in New Orleans. There are SMRS operators who are not listed in the directory.

Tomba—Motorola
New Orleans
Slidell
Marrero
Metairie
Destrehan
Bogalusa
Electrocom—GE & LTR
New Orleans
Mandeville
Landline Communications—LTR
Chalmette
Two-Way Communications—LTR
Metairie
Morgan Communications—GE
New Orleans
Crescent Radio—GE
Metairie
New Orleans Carfone—LTR
Metairie
JMT Communications—LTR
Lacombe
SOLA Communications—Motorola
New Orleans
Communications Towers—Motorola
Covington
Communications Center—GE & LTR
Covington

The principal SMR operators who are non-Nextel affiliates are:

Communications Center—GE & LTR
Covington
Crescent Radio—GE
Metairie
Landline Communications—LTR
Chalmatte

Thus, after the final acquisitions are completed, the number of providers of non-Nextel/Motorola service will be reduced from 11 to only 3. This is a vivid illustration of the lack of service alternatives once the Nextel/Motorola transactions are complete.

V. Evidence of Market Control

There is evidence that Nextel wishes to maintain complete control of the marketplace, denying competing two-way radio dealers of the ability to obtain recurring revenue through resale of SMR services on Nextel's systems. Because of the acquisitions, Nextel may be the only service SMR service provider in certain areas.

In a letter dated November 30, 1994 to Saber Communications (Exhibit C) the Communications Center formally requested a suitable agreement that would allow the resale of LTR SMR services on Saber's Louisiana network. The letter outlines the Communications various request for this service which dated back to October 26th, 1994. Finally on December 9th, the Communications Center received a reply (Exhibit D), but Saber denied the resellers agreement and said ''It is Nextel's policy that they do not resell airtime on any type system.'' Instead Saber offered a Independent Sales Representative commission plan which required all new customers to be billed direct by Saber. Thus, once the sale was made by the Communications Center, that customer would be turned over to Saber for recurring billing. Although there would be a commission paid for the turn on, there was no allowance for recurring revenue.

Recurring revenue from SMR and repeater services is the primary income for most successful two-way radio businesses. With the highly reliable low cost end user products available today, the potential for sales profits is somewhat reduced. Therefore recurring income from resale of SMR services can be critically important to cover the overhead of basic operations, including employment of office staff and technicians. By drying up another source of revenue, Nextel can effectively drive Motorola's competitors out of the two-way radio sales and service business.

Independent Sales Representative plans may be suitable when used for those in the consumer retail market, but when the primary business is two-way radio sales and service, the plan is generally unacceptable.

The fact that the customer is effectively relinquished after the initial sale, allows Nextel and Saber to easily bypass the sales representative when the user needs additional equipment. In the case of Saber, the monthly bills emblazoned with the logos Motorola. There are not advertisements for Johnson LTR products or General Electric, even though Nextel owns systems with both protocols.

With multiple SMR operators in a marketplace there has been fair competition. Open agreements for resale of SMR service are commonplace. Networking over wide geographic areas has been accomplished with cooperation between dealers in adjoining markets. Refusals by Nextel to provide resellers agreements will lessen competition and degrade services to the public.

VI. Conclusion

Trunked analog 800 MHz SMR is the most cost effective and feature packed mobile radio communication service available to business, industry and public safety. It is the mainstay of the dispatch mobile radio communications industry, and the United States should consider its importance before casting it aside upon the request of a single service provider.

Because Nextel is using the Motorola ''MIRS'' switching equipment, and because Motorola can control delivery, service and software for the controllers on the Nextel ''MIRS'' systems, it can effectively manipulate Nextel's policies. By using Nextel's concentration of spectrum, Motorola can control the 800 Mhz SMR marketplace. As stated in the US comments on Page 15 of the Complaint, ''the deployment of alternative technologies will be inhibited''.

With Nextel's control of such a significant portion of the radio spectrum as a Commercial Mobile Radio Service (CMRS) provider, it has an added responsibility of offering resale agreements to all qualified CMRS providers.

The question then arises, is it appropriate, upon the request of one manufacturer and one supplier of service, to dismantle operational dispatch systems, disrupt the public's use of the existing systems, and allow installation of a system that, according to the Department's CIS, is not particularly suited to dispatch service?

After evaluating the comments in this document, the Justice Department should understand that a more thorough investigation is needed to determine the true competitive impact of the Nextel/Motorola activities.

Exhibits A and B

Exhibits A and B, copies of a Yellow Pages document, are omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Saber Communications, Attn: Mr. Greg Wood,
Vice-President of Operations, 107 St. Francis, Suite 1900, Mobile, AL 36602.

VIA FAX: (205) 415–8528 Re: Request for resellers agreement, LTR SMR Service
November 30, 1994.

Dear Greg: On October 26, 1994, I called you and requested a suitable agreement that would permit the Communications Center to resell service on the Louisiana LTR SMR system which Saber acquired from Two Way Communications. Further, we talked about the Communications Center's GE Marc V SMR system, and our practice of buying and reselling services from each other since the Saber acquisition of Electrocom's GE Marc V SMR network. You advised me of your interest in a LTR roaming arrangement, but you couldn't give me a definite answer at the time.

October 27th, Slade Lindsey called me regarding the Antenna Sites tower leases in Abita, Hammond and Kentwood. I asked

about the LTR roaming agreement, but he said he would talk with you and have you contact me.

October 31st, once again I spoke to Slade about the tower leases. I asked about LTR roaming, but he said you had jury duty and wouldn't be available for a couple of weeks.

November 8th, Slade came to my office to work on the tower site leases, but he was unable to offer any information on my LTR roaming request.

In 1993, after Fitzsimons received his SMR grant for five channels at Abita Springs, I was involved in the system planning when it was decided to use the LTR protocol. Lester Boihem agreed to integrate the system into the Two Way Communications network with a reseller's agreement for dispatch, interconnect and networking. Before the Fitzsimons system was constructed. Two Way's network was acquired by Saber Communications. The Fitzsimons system has been fully constructed using Trident TNT controllers, with the capability of dispatch, interconnect and networking. We are selling LTR systems and have immediate need for the roaming and networking services that were agreed upon in the system planning sessions last year.

This letter will serve as my formal request to provide resale service on Saber's LTR SMR network in accordance with my agreement with Two Way Communications in 1993. The principal interest at this time is in the areas adjoining west St. Tammany, which includes the systems at Lacombe, Slidell, New Orleans, Hammond, Kentwood, Sheridan and Picayune. Limited service may be needed in Baton Rouge and Biloxi/Gulfport. The services requested are: dispatch; interconnect; and system networking. Please furnish the rates for resale of these services and the method of process for turn-ons.

In the interest of providing improved mobile communications services to the public, I trust you will respond favorably to my request in writing, by mail or facsimile, before December 8th. I remain,

Yours truly,

Walter Gallinghouse,

Owner-President.

Mr. Walter Gallinghouse,
Communications Center, Inc.,
16218 Highway 190,
Covington, LA 70434.

December 9, 1994.

Dear Walter: I have received your letter dated November 30, 1994 concerning a resellers agreement for LTR and GE SMR services. As you know, Saber has been acquired by Nextel Communications and we are now a wholly owned subsidiary. Since this transaction has taken place, we are now bound by their policies and procedures. It is Nextel's policy that they do not resell airtime on any type system. They do welcome all loading and are willing to compensate the person or company responsible under a Independent Sales Representative commission plan. If you are interested in this plan I will have one of our indirect representatives call on you.

Those customers already being invoiced on a Saber/Nextel managed or Communications Center system will be allowed to remain under the current plan along with any new unit they may add. All new customers requesting service on our systems will be invoiced direct by Saber and we will refer any customer requesting service in an area you provide directly to you.

We are also unable to grant your request to access the network currently managed by Saber for the system you manage in Abita Springs, Louisiana. We were not made aware of any agreement between Two-Way and the Communications Center concerning these channels during our due diligence on this acquisition. In fact, Two-Way suggested that Saber should talk to Fitzsimons about acquiring his channels. As you know, we are operating three channels of LTR in Abita Springs with excess capacity. Therefore there is no value to us or our customers to include your system on the network.

Nextel and Saber are both dedicated to providing the best mobile communications services available. We hope you will be interested in our Independent Sales Rep Program and we look forward to working with you on tower sites you own.

Sincerely;

Gregory T. Wood,

Operations Manager.

Attachment D

George S. Baranko, Esquire,
Attorney, Communications and Finance Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street NW., Room 8104, Washington, DC 20001.

January 9, 1995.

Re: Proposed Final Judgment in United States v. Motorola, Inc. and Nextel Communications, Inc., Civ. No. 1:94 CV02331, U.S. District Court for the District of Columbia

Dear Mr. Baranko: The General Electric Mobile Communications Dealer Board of Directors (the ''Board''), a group of specialized mobile radio (''SMR'') operators who own and operate SMR systems in the 800 MHz and 900 MHz bands throughout the United States, hereby submits its comments regarding the above referenced Proposed Final Judgment and respectfully urges that the United States withdraw its consent to the Proposed Final Judgment in its present form. The Board represents the interests of a cross-section of the General Electric SMR dealers throughout the United States.

In the Competitive Impact Statement, the Department of Justice (''DOJ'') recognizes that Nextel ''has become the primary supplier of trunked SMR services in the United States,'' and that Nextel ''controls far more 800 MHz SMR channel in the United States than any other company.'' DOJ also recognizes that Motorola ''is the second largest provider of trunked SMR services in the United States'', and that it ''owns or manages a substantial number of 800 MHz and 900 MHz channels it has used to provide trunked SMR services.''

DOJ correctly asserts that the combination of Nextel's and Motorola's owned and managed 800 MHz and 900 MHz SMR channels ''would result in Nextel holding virtually all of the SMR spectrum in 15 major cities.'' However, with the exception of requiring Nextel and Motorola to divest a certain number of 800 MHz SMR channels in Atlanta, Georgia, the relief in the Proposed Final Judgment is directly exclusively to 900 MHz SMR channels. The Board respectfully submits that the proposed relief ignores the realities of competition in the SMR market in the United States, and is inadequate to preserve and protect competition in that market.

I. 800 And 900 MHz Trunked SMR Service Is Not Interchangeable; 900 MHz SMRs Are At A Significant Competitive Disadvantage

In the Competitive Impact Statement, DOJ states that while ''mobile radios used on 800 MHz and 900 MHz systems are not compatible with each other, 800 MHz and 900 MHz systems provide interchangeable service.'' While the Board agrees that 800 MHz and 900 MHz equipment is not interoperable, the Board strongly disagrees that 800 MHz and 900 MHz SMR systems provide ''interchangeable service.''

900 MHz SMR spectrum is channelized, allocated and technically different than 800 MHz spectrum and, as a result, 900 MHz is considerably less desirable to both the provider and the user than 800 MHz spectrum. For example, 900 MHz does not propagate as well as 800 MHz and, therefore, 900 MHz service providers are forced to install more sites to get the same coverage as 800 MHz service providers.[1] Installing more sites means additional infrastructure costs for purchasing and installing base stations. The net result of more infrastructure equipment is that the cost of operating a 900 MHz system is higher than for a 800 MHz system; thereby putting 900 MHz SMRs at a competitive disadvantage.

The Federal Communications Commission (''FCC'') is well aware of the differences in 900 MHz and 800 MHz SMR channels and addressed a number of them in its Report and Order in PR Docket 92–17, August 4, 1992. The FCC stated that many 900 MHz SMR ''licensees have failed to construct and place their systems in operation * * *.'' The FCC also recognized that the 900 MHz licensing scheme ''*may have placed 900 MHz SMR licensees at a competitive disadvantage to 800 MHz licensees, by making it difficult to develop the types of wide-area and regional systems characteristic of current, competitive (800 MHz) SMR offerings.*'' (Emphasis added.) The FCC further noted that ''[o]ur multiphase licensing scheme has limited 900 MHz SMR systems to artificially defined markets and has precluded a free selection of sites in each market. As a result, licensees have been unable to develop the kind of wide-area services expected by today's private radio customers.''[2] This conclusion was echoed by Nextel (formerly Fleet Call) in its comments in the FCC docket.[3] Thus, the

[1] Both free-space transmission loss and ''knife edge'' diffraction increase as frequency increases. Higher frequencies incur greater losses and, therefore, cover less area given equivalent power output and antenna height.

[2] Report and Order, Docket 92–17, released August 4, 1992.

[3] *See* Comments filed by Fleet Call in Docket 92–17 on March 11, 1992.

900 MHz spectrum does not offer the technological capabilities for wide area service that are required by many SMR customers, and the requirements to divest 900 MHz channels does not adequately provide service alternatives for users with a need for wide-area trunked SMR services or for other SMR operators who need to provide such services in order to compete with Nextel.

Nextel is using Motorola Integrated Radio Service (MIRS) products for its network backbone and Motorola handsets, which can handle voice, paging and data capabilities on a single piece of equipment. A Wall Street Journal article dated January 3, 1995 reported that Nextel believes that SMR customers will require these enhanced features: ''Nextel must persuade customers who spend only about $20 a month to spend as much as three times that sum to get a new array of fancier features, such as wireless messaging and cellular phone service.'' [4] 800 MHz spectrum is well-suited for data applications due to the 25 KHz wide channels allocated in this band. 900 MHz spectrum is allocated in 12.5 KHz channels which limits the maximum data rate achievable on a 900 MHz channel to approximately one-half that of an 800 MHz channel utilizing the same radio technology.[5] This negatively impacts the 900 MHz SMR's competitiveness in offering data service.

The narrower bandwidth also impacts the number of SMR users that can be placed on a channel. For example, MIRS is marketed as a 6:1 capacity gain per 800 MHz channel, *i.e.*, 6 users per time slot utilizing a 25 KHz channel. In contrast, if equivalent technology is applied to narrowband 900 MHz channels, only a 3:1 capacity gain can be achieved. Each user that is loaded onto an SMR system represents revenue. Thus, one 800 MHz channel is essentially equivalent to two 900 MHz channels in terms of revenue generation potential.[6]

II. Due to the Number of Channels and the Limited Areas in Which 900 MHz SMRs Licenses Are Allocated, 900 MHz SMRs Have Significant Limitations On Equipment Availability and Price, and Ability to Load Their Systems

At 800 MHz, there are 280 channels allocated to SMRs and, at 900 MHz, there are 200 channels allocated to SMRs. However, at 900 MHz, only the top 50 cities (designated filing areas) have been licensed, while at 800 MHz, licenses have been granted to all areas within the United States. 900 MHz SMR systems are more expensive to build and operate and, therefore, when 800 MHz service is available, 900 MHz SMR operators are at a significant competitive disadvantage and it is harder to attract 900 MHz customers. In addition, because of the limited market, at 900 MHz there is less choice of equipment and features, and the equipment is more expensive than similar 800 MHz equipment. Nextel, in its SEC Form 10Q filing (June 30, 1993) noted that ''900 MHz systems generate lower revenues and profitability than the 800 MHz systems because: i) the revenue per subscriber unit is lower on the 900 MHz systems than the 800 MHz systems due to excess capacity, and ii) the operating costs on 900 MHz systems often include management fees paid to licensees.'' [7]

The Proposed Final Judgment does nothing to protect competition in the trunked SMR market outside of the 15 cities covered by the Judgment. DOJ asserts that ''the proposed Final Judgment preserves competition for trunked SMR customers by limiting the 900 MHz spectrum Nextel and Motorola will own and control for the next ten years.'' However, the proposed Final Judgment will do nothing to protect the vast majority of SMR customers who are located outside of the 15 covered cities, where Nextel will be permitted to maintain and exploit its dominant position in 800 MHz SMR spectrum. Furthermore, in cities outside of the top 50 cities, there will not even be potential 900 MHz competition with Nextel until after the FCC issues 900 MHz SMR licenses through its auction procedures.

Furthermore, current technology does not allow for equipment to be interchangeable between the 800 MHz and 900 MHz bands. SMRs which have significant investment in existing 800 MHz infrastructure and subscriber units will not be able to expand their networks and effectively compete against Nextel unless additional 800 MHz channels are available. 900 MHz channels will be of no use to such SMRs because customers cannot roam between 800 MHz and 900 MHz systems. The unsatisfactory alternative would be for the SMR to build and operate a separate 900 MHz system in addition to its present 800 MHz system.

III. DOJ's Rationale For Providing No Relief With Regard To Nextel's Control of 800 MHz SMR Spectrum Is Contrary To The Facts

DOJ states that ''[c]ellular telephone service is not a substitute because it is significantly more expensive than SMR service, is significantly more difficult for customers to restrict communications to a defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis.'' Despite this, DOJ contends, as its rationale for limiting relief to the 900 MHz SMR spectrum, that: ''Nextel's consolidation of SMR spectrum, *may enable it* to create a third mobile telephone service to compete with established cellular services. The result *could be* a wider variety of wireless services at a lower cost in the near future. The Department saw substantial benefits to new competition in another market [the cellular telephone market] *if* Nextel could obtain sufficient capacity at 800 MHz to enable it to enter that market.'' (Emphasis added.)

It is simply impermissible under the antitrust laws to sanction the acquisition of dominant market power in one market on the theory that such dominance may have procompetitive benefits in a second market. This is particularly so when, as in this case, the perceived benefits in the second market are *admittedly purely speculative*!

Furthermore, the contention that Nextel/Motorola's consolidation of SMR spectrum may have procompetitive benefits in the cellular telephone market is *expressly contradicted by recent pronouncements by both Nextel and Motorola.* As reported in the December 2, 1994 edition of Land Mobile Radio News, a spokeswoman for the Motorola division that supplies Motorola Integrated Radio System (MIRS) technology to Nextel and its potential partners. OneComm Corp. and Dial Page Inc., stated that *''the greatest marketing change would attempt to alter the perception that ESMRs soon would be a third cellular competitor, focusing instead on integrated wireless services for dispatch.''* [8] (Emphasis added.) Similarly, Nextel's CEO, Morgan E. O'Brien, recently stated that ''Nextel never portrayed itself as the next cellular giant pursuing 'glove-compartment' consumers. Instead, it has always aimed its new cellular features at 'the mobile work force' now using dispatch.'' [9] As Nextel and Motorola are now publicly denying that they will attempt to compete with cellular telephone, DOJ cannot attempt to justify the Proposed Final Judgment on the basis of the possible benefits of such competition. As its recent pronouncements reflect, Nextel's objective is to dominate the SMR market by obtaining all of the SMR spectrum it can obtain. Such anticompetitive conduct should not be countenanced.

IV. Motorola Will Become the Sole Supplier for Virtually Every 800 MHz SMR Enabling it to Control the Price, Quality and Availability of Equipment

DOJ recognizes that, as a result of its agreement with Motorola, Nextel would control ''virtually all of the frequencies currently used for SMR service in fifteen (15) of the largest cities in the United States.'' DOJ also states that ''Nextel's numerous acquisitions of 800 MHz SMR service providers are part of a plan to replace the currently deployed analog technologies in these systems with the new Motorola Integrated Radio System (''MIRS'') developed by Motorola.'' Since virtually all of the spectrum will be owned by Nextel, all the equipment purchased will be provided by Motorola. As a result, Motorola, which has an exclusive supply arrangement with and a 24% ownership interest in Nextel, will become the dominant supplier of 800 MHz SMR equipment, enabling it to control the prices, quality and availability of such equipment.

V. DOJ Is Correct in Excluding 220 MHz as a Substitute For 800 MHz

The Board agrees with DOJ's position that ''220 MHz service will require some time to

[4] ''For Nextel, '94 Was Best of Times and Worst of Times'', *The Wall Street Journal*, January 3, 1995, p. A–14.

[5] *See* Nyquist's Theorem of Bandwidth Limitations.

[6] *See* Motorola Paper presented to the European Telecommunications Standards Institute, ''Advantages of Linear Modulation For a Pan-European Digital Trunked System,'' dated January, 1991.

[7] Form 10-Q, filed with the Securities and Exchange Commission for the quarter ended June 30, 1993 by Nextel Communications, Inc., p. 11.

[8] ''Motorola Rethinks Marketing Plans In Wake of ESMR Stock Decline,'' *Land Mobile Radio News*, December 2, 1994, pp. 1 & 4.

[9] ''For Nextel, '94 Was Best of Times and Worst of Times'', *The Wall Street Journal*, January 3, 1995, p. A–14.

gain commercial acceptance, just as 800 MHz and 900 MHz service required when they were first implemented. As a result, when 220 MHz systems are constructed, they will not adequately discipline the parties' control of 800 MHz and 900 MHz systems in the 15 cities.'' In fact, even after 220 MHz systems are constructed, they will not be a viable substitute for 800 MHz systems. Systems operating at 220 MHz require 5 KHz equipment and very few manufacturers make that type of equipment. In addition, the 220 MHz band contains only 2 MHz of spectrum, which means the SMR channel allocation is not comparable to that allocated for SMRs at 800 MHz.

VI. Conclusion

As explained above, the Competitive Impact Statement is premised upon a misunderstanding of the competitive realities in the SMR marketplace and perceived procompetitive benefits that have been disclaimed by both Nextel and Motorola. The Nextel/Motorola agreement will have serious adverse effects upon competition in the SMR marketplace and the Proposed Final Judgment does not adequately protect against such injury to competition. The Proposed Final Judgment is not in the public interest and the United States should withdraw its consent to the Proposed Final Judgment.

Respectfully submitted,

General Electric Mobile Communications Dealer Board of Directors.

Michael D. Salmon,

Recording Secretary.

Mr. George Barako,

Room No. 8104, Att.: Telecommunications Section, US Department of Justice, Judiciary Building, 555 4th Street NW, Washington DC 20001.

December 16, 1994.

Dear Mr. Barako: The purpose of this letter is to submit to the Department of Justice that actions taken against Motorola, Inc. for violations of the Anti-Trust Act touch only upon the surface, so to say, of possibly criminal infringements. Motorola's business strategy seems to be to gain control of the Communications Industry by dominance over the issuance of FCC licenses, the manufacture and distribution of equipment, such as Repeaters (Transceivers), Mobile Stations for installation in dispatch offices, hand-held radios for use in vehicles and above all semiconductors, much needed by the Two-Way Radio Industry.

By making both equipment and holding licenses Motorola would have full control over users of a radio system who had bought it from that company. Motorola has chosen to be THE company in the USA that makes equipment, repairs and provides repeater service, all needed to make a system work. After selling the equipment it is set up on Motorola-owned station repeaters. Trunked 800 MHz and 900 MHz systems made by Motorola operate on a proprietary Digital Format, thus only Motorola radios will work. If a user decides upon a Motorola systems he MUST buy Motorola equipment from Motorola or buy used Motorola radios and have Motorola program them.

Sometimes there are companies, other than Motorola, that do provide repeater service, e.g. NEXTEL (formerly Fleetcall), who however must buy the equipment from the only supplier who happens to be Motorola.

There are a few smaller companies who provide repeater service but before they can get equipment they must sell to the user the Motorola Digital Controler/Repeater system; there have also been cases where Motorola has refused to sell equipment. The buyer may become a competitor, a possibility Motorola would not like.

Motorola also keeps control of radio programming on any systems. Motorola has set up computer systems so that only Motorola, some authorized dealers and Motorola Service Centers can program the trunked radios.

Motorola and NEXTEL over the past several years have bought most competing systems all over the U.S. and mainly in the major cities. Buying most and sometimes all their competitors permits Motorola/NEXTEL to control the price of airtime on the repeater systems.

In Los Angeles Motorola has the ONLY 900Mhz trunking service with the Motorola Digital Format. This was made possible by buying out the other companies that could supply this trunking service format. Once Motorola had control of All the 900Mhz systems in the Los Angeles area Air Time fees were increased. The users who had bought Motorola equipment did not know then that Motorola would be the only provider of Air Time; now the only way to obtain a fair market price on Air Time meant buying a new radio system which many users simply cannot afford to do.

The other major trunking format in the U.S. is the E. F. Johnson LTR trunking format. While Johnson makes the equipment other manufacturers also make equipment compatible with the Johnson system. In all markets in the U.S. there are choices to obtain service for the Johnson system. People almost anywhere in the U.S. can choose where to procure repeater services at a fair price. This does not hold true for the Motorola/NEXTEL systems. Therefore he/she who buys a Motorola system is stuck with a high starting price, high operating and possible replacement costs.

NEXTEL wants to obtain the Johnson systems nation-wide in order to force existing users to buy Motorola/NEXTEL system radios.

The DOJ might make Motorola and NEXTEL give up frequencies on the 800Mhz and 900Mhz bands to other systems. Motorola and NEXTEL ought to keep up some of the older systems instead of trying to force existing users to buy Motorola/NEXTEL radios and give users a wider choice.

Motorola also holds licenses for 800Mhz systems in relatively small markets like Ventura in California where Motorola claims to have more frequencies than the company is entitled to. This practice is known as paper loading and is a fraudulent activity to gain control of more frequencies than what would be fair for one organization.

The DOJ should, nay: must stop Motorola/NEXTEL from gaining total control of the mobile radio industry. If Motorola and NEXTEL are not stopped the future of the business will become Motorola's to make the equipment and NEXTEL's to supply Air Time at any price they choose because the users will have no other place to go.

Motorola has also obtained FCC licenses [frequencies] fraudulently by putting licenses in the name of people who have no intention of using these systems and then have such un-suspecting non-user sign the application with Motorola ''taking over'' once the license is recorded. I (Harold) had learned about this scheme because one James Kay, now being investigated by the FCC, and possibly by the DOJ, has ''worked'' this angle to obtain some (possibly many) of the 164 licenses he holds.

I (Harold) ran into this scheme myself when I got a frequency in which Motorola was also interested. Motorola acquired a customer [Tow-R-Us] and had him apply for a frequency to tie up one I was using. I asked the customer why he wanted of all possible frequencies just the one I was using; he told me that Motorola had asked him to apply for that license but he had no intention of ever using the frequency.

The foregoing shows how Motorola together with NEXTEL tries anything and everything to gather frequencies in the 800 and 900Mhz bands by any and all means and methods.

If the Motorola/NEXTEL methods and enterprises are not stopped in their tracks, and NOW!, the two will develop and build and thereby become an unimpeded MONOPOLY nation-wide of the Mobile Radio Systems and will make not only competition by but the existence of small business impossible.

The Motorola/NEXTEL system will also provide a Local Dial Tone to users making it ''The Third Cellular System''. The system is unfair to the other cellular carriers as well as to the user, the general public, for once a user is on the NEXTEL system he cannot change service to another cellular systems. The NEXTEL system is also inherently unfair to manufacturers of cellular equipment because Motorola has a contract with NEXTEL stating that Motorola is the only company that may make radios for the NEXTEL [Motorola] system.

Motorola made a deal with NEXTEL whereby Motorola will trade its 800Mhz frequencies for NEXTEL stock and that NEXTEL must buy equipment only from Motorola. Trading FCC frequencies for stock is a rather questionable practice; first of all, an FCC license is simply a permit granted by the US Government to an individual or company to use the electro-magnetic spectrum in a prescribed manner. The holder of a license does not own it; it is a use permit and consequently it has no monetary value. It may also be rather impossible to ascertain the true value of Motorola's and NEXTEL's stock because an unreal value could be placed upon the stock that might include a fictitious evaluation of the ''monetary value'' of the licenses.

It seems Motorola is trying to settle the DOJ anti-trust lawsuit by giving up 900Mhz frequencies to keep the 800Mhz ones. This would be costly to users; different radios must be used on the 800Mhz and 900Mhz bands, rendering one set of radios or the other obsolete.

Research also shows that Motorola is the only US company that makes various types of transistors that are used in the radio field; Motorola has bought TRW's transistor division so only Motorola can supply these devices; US radio manufacturers must buy them from Motorola.

We have fought Motorola and Los Angeles based companies owned by one James A. Kay Jr.* who has been closely associated with Motorola* for many years. According to the FCC Kay holds 164 licenses+ in which Motorola is much interested and had wanted to obtain a large number of 800Mhz frequencies from Kay.

PS*: Kay: ''Me and Motorola are in cahoots!'' (quote-unquote)

PS+: Many of Kay's 164 licenses are registered under different names.

When we told the FCC and the Congress about the wrong done by Motorola and Kay both filed bogus law suits against us at the same time.

We are requesting help from the DOJ by protecting us from Kay and Motorola because they want to destroy us. Three times we went to depositions, each time with a different car, and each time the rear R tires were slashed in a rather unique fashion. The first time, I (Harold) was alone; the car over-turned on the Freeway and came to rest in a ditch. Fortunately I was not hurt. The second time we were riding together; we noted the slash in the R rear tire in time. The third time Mrs. Pick was watching the car while she in turn was watched by two men who seemed to be very interested indeed in what she was doing; they carried hand-held radios that looked like Motorolas and carried on a conversation with Kay—in the same upstairs room as I (Harold) was at the time.

We are willing to testify against both Motorola and Kay.

Sincerely,

Harold Pick.

By Hand

George S. Baranko, Esq.,
U.S. Department of Justice—Antitrust Division, 555 4th Street, N.W., Room 9901, Washington, DC 20001.
January 17, 1995.

Confidential

Dear George:

Attached are the comments of OneComm Corporation on the proposed consent decree in *U.S. v. Motorola, Inc. and Nextel Communications, Inc.,* Civ. No. 1:94CV02331.

If you have any questions, please call me.

Sincerely,

Bernard A. Nigro, Jr.

Comments of OneComm Corporation on Proposed Final Judgment and Stipulation by Motorola, Inc. and Nextel Communications, Inc.

On January 9, 1995, the United States Department of Justice filed a motion in the above-referenced proceeding to extend until January 17, 1995, the period of time for interested persons to file comments pursuant to the Antitrust Penalties and Procedures Act, 15 U.S.C. 16(b)–(h). The motion was filed at the request of OneComm Corporation (''OneComm''), an interested person in this case, because its merger with Nextel had not yet closed. Since the motion for an extension of time was filed, OneComm has received assurances that Nextel is moving forward in good faith to close its transaction with OneComm and, therefore, OneComm has no comments.

Dated: January 17, 1995.

Respectfully submitted,

James F. Rill,

Bernard A. Nigro, Jr.,

Collier, Shannon, Rill & Scott.

Counsel for OneComm Corporation.

Attachment G

Attachment G, a Wall Street Journal article ''For Nextel, '94 Was Best of Times and Worst of Times,'' is omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment H

Attachment H, a Land Mobile Radio News article ''Motorola Rethinks Marketing Plans in Wake or ESMR Stock Decline'' is omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment I

Attachment I, copies of letters to Wall Street Journal, are omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment J

Morgan E. O'Brien, being duly sworn, deposes and says:

1. I am the Chairman of Nextel Communications, Inc. (''Nextel''), defendant in the above-captioned action. Nextel is headquartered in Rutherford, New Jersey. My office is located at 800 Connecticut Avenue, N.W., Washington, D.C. 20006. I have been asked to reconfirm Nextel's long-term business plans in response to concerns raised by the public and the media about Nextel's intention to move forward with its proposed nationwide wireless telecommunications system. I have personal knowledge of the facts set forth in this affidavit.

2. Since Nextel's (formerly ''Fleet Call'') founding in 1987, Nextel's business objective has remained constant—to become a major provider of wireless communications services. For the last several years, Nextel's business plans and efforts have been, to a large extent, directed toward replacing the conventional analog SMR systems that it currently operates with advanced digital mobile (or ESMR) networks, which offer mobile calling services, alphanumeric messaging, dispatching and data transmission in a single digital phone. The implementation process has been gradual and ongoing. Nextel has activated its Digital Mobile network systems, and has commenced offering commercial service throughout most of the state of California (e.g., Los Angeles, Sacramento, San Francisco and the Central Valley), as well as in the greater metropolitan areas in and around Chicago and New York. Today, the Nextel Digital Mobile systems that are operational in these markets provide wireless communications services to areas that, in the aggregate, represent approximately 25% of the total population of the United States. The construction of the Digital Mobile systems involves significant amounts of preparatory activities, such as frequency planning, site procurement and preparation, obtaining zoning approvals and similar tasks in advance of system infrastructure installation and system activation, testing and optimization. Such activities have been substantially completed or are currently ongoing in most of Nextel's remaining major market areas, including San Diego, Las Vegas, Reno, Cleveland, Detroit, New England and the Mid-Atlantic regions. As disclosed in Nextel's numerous filings with the Securities and Exchange Commission (''SEC''), Nextel's nationwide Digital Mobile network

build-out plan is premised on a number of factors, such as availability of sufficient financing on acceptable terms and achievement of satisfactory system performance in the relevant markets. To the extent such build-out plan would encompass market areas beyond those in which Nextel currently possesses sufficient holdings of spectrum, it would be dependent on the factors noted above and also on consummation of Nextel's currently pending or proposed transactions with other parties, including Motorola, Inc., OneComm Corporation, American Mobile Systems Incorporated and Dial Page, Inc.

3. As described in numerous Nextel documents and presentations, including the company's Annual Reports on Form 10–K for the fiscal years ended March 31, 1992, 1993, and 1994, as well as Nextel's interrogatory responses to the DOJ's Second Requests, Nextel's marketing strategy for its Digital Mobile network services is intended to be implemented in three stages. In the first stage, which Nextel currently is in now, Nextel is focusing its efforts on migrating its current dispatch-users to the digital mobile network. The second stage will concentrate on attracting new business users (e.g., current subscribers of traditional SMR or other two-way services), who may be especially attracted by the integrated package of services achievable through the new digital technology. The third stage will be geared towards a broader category of users, i.e., attracting potential customers who are interested in general mobile telephone service. Nextel expects to rely on its ability to provide an integrated package of digital wireless services in marketing itself to this segment as a viable and unique competitor providing services that are not only similar to those available from cellular operators and any other providers of mobile telephone services, but also paging and enhanced dispatch service providers.

4. Nextel expects that its mobile telephone services will be competitive with those offered by cellular providers and other providers of mobile telephone services in terms of quality of service, features offered, pricing structure and airtime utilization. In addition, Nextel believes that its ability to provide an integrated package of mobile communications services will appeal to a wide array of users of wireless communications services, including private network dispatch, paging and mobile telephone and mobile data transmission. Cellular providers currently do not directly provide such integrated services. Essentially, Nextel's business goal is to capture a significant share of the potential wireless customer base, not just the dispatch customers.

5. Nextel expects to charge rates that are competitive with those charged by other providers of wireless communications services. For example, Nextel's customers will pay only for the services used, with package pricing available for customers who subscribe to more than one service. If a customer uses digital dispatch, Nextel's charge is comparable to or reflects a slight premium over conventional analog dispatch rates, reflecting larger calling areas, higher quality transmission, and enhanced privacy. Similarly, a customer who uses Nextel's mobile telephone service will be charged rates comparable to those charged by cellular telephone providers and any other providers of mobile telephone services. Only where customers subscribe to services in addition to dispatch service will they be charged for such additional services capabilities, and accordingly, to the extent such customers utilize such an integrated digital wireless service package would they be likely to pay significantly more than they do today for dispatch.

6. Nextel's business and marketing plans are subject to periodic review and would, of course, be subject to adjustment as may from time to time be deemed advisable to respond to particular conditions affecting the economy generally, the evolving wireless services industry or the company specifically.

7. Motorola remains strongly committed to the success of its advanced digital technology, referred to as MIRS, and to its investment in Nextel.

Sworn to before me this 15 day of February, 1995.

Morgan E. O'Brien.

Clare Pugsley,

Notary Public District of Columbia.

[FR Doc. 95–8814 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 17, 1995, and published in the **Federal Register** on March 1, 1995, 1994, (60 FR 11115), Organix Inc., 65 Cummings Park, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Morphine (9300)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9391 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 9, 1995, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Fenethylline (1503)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I

Drug	Schedule
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexy)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
Etorphine (except HCl) (9056)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661).	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Beta-hydroxyfentanyl (9830)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to repackage the controlled substances in order to supply pure drugs for drug testing and analysis.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 17, 1995.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9392 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 23, 1995, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance in Schedule II.

The firm plans to import the Coca Leaves to manufacture Cocaine under its DEA manufacturers registration.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9393 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau; Commission on Family and Medical Leave; Public Hearing

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to Title III of the Family Medical Leave Act (FMLA) of 1993 (P.L. 103–3) this is to announce a hearing on the experience of FMLA for the Commission which is to take place on Monday, May 8, 1995. The purpose of the Commission is to, among other things, study the effects of existing and

proposed policies relating to family and medical leave. The Commission has the practical task of conducting a comprehensive study of: (a) Existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under the Act; (b) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees; (c) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size; (d) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act; (e) alternative and equivalent State enforcement of Title I with respect to employees described in section 108(a); (f) methods used by employers to reduce administrative costs of implementing family and medical leave policies; (g) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and (h) the impact on employers and employees of policies that provided temporary wage replacement during periods of family and medical leave.

TIME AND PLACE: The hearing will be held on Monday, May 8, 1995, from 9:30 am until 12:30 pm, at the Dirksen Federal Office Building, 219 South Dearborn Street, Chicago, Illinois 60604.

AGENDA: The agenda for the hearing is as follows: Panel of FMLA supporters, Panel of FMLA Critics, Panel of Not Covered Employers and Employees.

STATEMENTS: Interested persons may submit, in writing, data, information or views on employer or employee experiences with FMLA prior to or at the hearing.

PUBLIC PARTICIPATION: The hearing will be open to the public. Seating will be available on a first-come, first-served basis. Seats will be reserved for the media. Persons with disabilities should contact the Commission no later than April 24, 1995, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Susan King, Executive Director, Commission on Leave, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–3002, Washington, D.C. 20210, Telephone: (202) 219–4526; Ext. 102.

Signed at Washington, D.C. this 10th day of April, 1995.

Susan King,

Executive Director, Commission on Leave.

[FR Doc. 95–9327 Filed 4–14–95; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Prescreening Sections 2 and 3) to the National Council on the Arts will meet on April 27–28, 1995 from 9:00 a.m. to 5:30 p.m. and from May 8–9, 1995 from 9:00 a.m. to 5:30 p.m. Both sections will meet in room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

These meetings are for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Advisory Committee Management Office, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5788.

Dated: April 12, 1995.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9438 Filed 4–14–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on May 2, 1995, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss Westinghouse Electric Corporation proprietary information pursuant to [5 U.S.C. 552b(c)(4)].

The agenda for the subject meeting shall be as follows:

Tuesday, May 2, 1995—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Westinghouse best-estimate thermal hydraulic code, *W* COBRA/TRAC. The focus of the meeting discussion will be on NRR's review methodology for best-estimate LOCA codes vis-a-vis the strictures of the revised ECCS Rule (10 CFR 50.46). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 11, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–9370 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Reactor Fuels will hold a meeting on May 3, 1995, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, May 3, 1995—8:30 a.m. until the conclusion of business.

The Subcommittee will begin review of the NRC and industry programs being conducted to address issues associated with the use of high-burnup fuel. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 11, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–9371 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

Issuance of Amendment to Facility Operating License; GPU Nuclear Corporation

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 179 to Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance, to be implemented within 30 days of issuance.

The amendment revises Technical Specification 5.3.1.E to allow 2645 fuel assemblies to be stored in the fuel pool. This is an increase of 45 fuel assemblies from the current limit of 2600 fuel assemblies. The 45 additional storage locations currently exist in the racks in the fuel pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 20, 1994 (59 FR 65542). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 17373).

For further details with respect to the action see (1) the application for amendment dated November 25, 1994, as supplemented February 15, 1995, and (2) Amendment No. 179 to License No. DPR–16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Dated at Rockville, Maryland, this 10th day of April 1995.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick, Sr.,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9372 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322; License No. NPF–82]

In the Matter of: Long Island Power Authority (Shoreham Nuclear Power Station, Unit 1); Order Terminating the Facility Operating License

I

Long Island Power Authority (LIPA or the licensee) is the holder of Facility Operating License No. NPF–82, issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to part 50 of Title 10 of the Code of Federal Regulations (10 CFR) on April 21, 1989. The license was amended on June 14, 1991, to remove the authority to operate the Shoreham Nuclear Power Station (SNPS), in accordance with conditions specified therein, and authorized the possession only for SNPS. The facility is located on LIPA's site in the town of Brookhaven, Suffolk County, New York.

II

On February 28, 1989, Long Island Lighting Company (LILCO), the former licensee, entered into an agreement with the State of New York to transfer its Shoreham assets to an entity of the State (LIPA) for decommissioning. LILCO, however, continued to pursue with NRC its request for a full-power license to operate its Shoreham plant. On April 21, 1989, NRC issued to LILCO a Facility Operating License No. NPF–82, which allowed full-power operation of the Shoreham plant. On June 28, 1989, LILCO's shareholders ratified LILCO's agreement with the State. Consistent with the terms of the settlement agreement, which prohibits further operation of the Shoreham facility,

LILCO defueled the reactor and reduced its staff. On February 29, 1992, NRC approved the transfer of the Shoreham license to LIPA.

In a letter dated June 27, 1991 (SNRC–1818), the former licensee, LILCO requested, in accordance with the requirement of 10 CFR 50.82(a), approval for termination of SNPS License No. NPF–82. The application for license termination was preceded by a proposed decommissioning plan (DP) that was submitted to NRC on December 29, 1990.

In June 1992, the NRC approved the licensee's DP, which described the planned dismantlement and decontamination methods that would be used to reduce contamination at the facility to meet the unrestricted release criteria. By an agreement between the Philadelphia Electric Company (PECo) and LIPA, the slightly irradiated fuel stored in the SNPS spent fuel pool was transferred to the Limerick Generating Station for reuse. The fuel transfers began in September 1993, and were completed in June 1994.

The dismantlement and decontamination tasks necessary for decommissioning SNPS, began in June 1992, and were completed in August 1994. All contaminated waste generated during the decommissioning of SNPS has been removed from the site.

III

The SNPS proposed DP was approved by an Order dated June 11, 1992. Approximately 602 curies of radioactive material were present in the RPV and internal components; 1370 curies in the control rod blades, local-power-range monitors, and antimony/beryllium pins; 457 millicuries in the reactor bioshield wall; and 3 millicuries in contaminated systems and areas. Approximately 593 millicuries were present in the spent fuel storage pool water (SFSP) and on the surfaces of the SFSP and fuel storage racks.

The SNPS was decommissioned in accordance with the approved DP, as supplemented. The licensee decommissioned SNPS by dismantlement and decontamination. The activated and contaminated reactor vessel internals were removed and disposed of as radioactive waste. Activated portions of the reactor pressure vessel (RPV) that exceeded unrestricted release criteria, were segmented, packaged, and disposed as radioactive waste. Large contaminated components and portions of plant systems and structures that could not be decontaminated effectively were segmented, as necessary, and packaged and shipped offsite for volume reduction and/or direct disposal at licensed low-level waste disposal facilities. Contaminated water was processed and released in accordance with approved release requirements, and activated portions of the reactor bioshield wall exceeding unrestricted release criteria were removed and disposed as low-level radioactive waste.

The DP, as supplemented, contained the licensee's Termination Survey Plan (Plan). The Plan described the methods used to demonstrate compliance with the existing NRC unrestricted release criteria. The guidelines used by the licensee for residual radioactivity at the SNPS are consistent with the values provided in Table 1, of Regulatory Guide 1.86, which establishes acceptable residual surface contamination levels. NRC approved alternative contamination limits for iron–55 and tritium above those specified in Regulatory Guide 1.86. These alternative criteria were presented to the Commission in SECY 94–145 and increased the allowable residual average and maximum total residual beta activity levels for iron–55 and tritium from 5,000 average total and 15,000 maximum total (fixed plus removable) disintegrations per minute (dpm)/100 square centimeters to 200,000 average total and 600,000 maximum total dpm/100 square centimeters, respectively. This permitted the licensee to safely retain on site major portions of the reactor bioshield wall that did not exceed the gamma dose rate criterion or the surface contamination limits for other isotopes, but which would have required offsite disposal under the original iron–55 and tritium surface contamination limits of Regulatory Guide 1.86. A concentration limit for cobalt–60 in soil and other bulk materials of 8 picocuries per gram was also established. An average gamma dose rate criterion of 5 uR per hour above background, at a distance of 1 meter from accessible surfaces, and an individual gamma exposure rates are not to exceed 10 uR per hour above background at 1 meter were used. In addition, the licensee's Plan also described the technical methods that would be used for the planning and design of the Termination Survey. The methods used by the licensee for the planning and design of the Termination Survey were derived from regulatory guidance contained in the NRC Regulatory Guide 1.86 and draft NUREG/CR–5849.

The licensee's Termination Plan was implemented at the individual survey unit level. The licensee established the following three survey units: (1) Structures, which included building interiors; (2) plant systems; and (3) outdoor areas. The licensee used a phased approach to conduct the actual termination surveys. Phase 1 of the termination surveys included surveys of the main turbine internals, turbine building, site and grounds, and the exterior of buildings. Phases 2 and 3 of the termination surveys included portions of the reactor and radwaste buildings and the suppression pool. Phase 4 (final phase) of the termination survey included those portions of the reactor and spent fuel pool used to support irradiated fuel storage, before the fuel's removal from the site. The licensee completed the Termination Surveys in August 1994.

The licensee submitted phases 1, 2, and 3 of the Final Termination Survey Reports to NRC in September 1993, February 1994, and June 1994, respectively. Phase 4 of the Final Termination Report was submitted to NRC for review in October 1994. The Oak Ridge Institute for Science and Education (ORISE) performed independent confirmatory surveys at SNPS for NRC.

Based on the licensee's completion of the decommissioning tasks at the SNPS, as described in the approved DP, and supplements, the staff's review of the licensee's Final Termination Survey Reports, and the results of the ORISE confirmatory surveys, the staff has determined that the decommissioning of the SNPS is complete, that the residual radioactivity levels have been reduced in accordance with NRC release criteria, and that the facility and the site are suitable to be released for unrestricted use.

IV

Accordingly, pursuant to sections 103, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 50.82(f), NRC terminates License No. NPF–82.

Any person adversely affected by this Order may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406, and to the licensee. If such a person requests a hearing, that person

shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). The Commission will issue an Order designating the time and place of the hearing.

If a hearing is granted, the issue to be heard is whether the licensee complied with the Commission-approved decommissioning plan.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

For further details with respect to this action, see: (1) The licensee's request to terminate the SNPS license presented in letters dated June 27, 1991 (SNRC–1818), and August 4, 1994 (LSNRC–2178); (2) the Commission's Order approving decommissioning dated June 11, 1992; (3) the licensee's Termination Survey Final Report, Phase 1 (LSNRC–2101), dated September 30, 1993; the licensee's Termination Survey Final Report, Phase 2 (LSNRC–2144), dated February 4, 1994; the licensee's Termination Survey Final Report, Phase 3 (LSNRC–2173), dated June 14, 1994; the licensee's Termination Survey Final Report, Phase 4 (LSNRC–2184), dated October 12, 1994; and (4) the ORISE Final Confirmatory Reports dated July 1993, September 1994, and February 1995. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2102 L Street, NW., Washington, DC 20555, and at the Shoreham Wading River Public Library, Route 25A, Shoreham, NY 11786. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Waste Management.

Dated at Rockville, Maryland, this 11th day of April, 1995.

For the Nuclear Regulatory Commission.

John T. Greeves,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–9373 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800.

Upon written request copies available from: Securities and Exchange Commission, Office of Filings and, Information Services, 450 Fifth Street NW., Washington, DC 20549.

Extension: Rule 15a–6, File No. 270–329.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted a request for extension of OMB approval to Rule 15a–6 [17 CFR 240.15a–6] under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15a–6 provides, among other things, an exemption from broker-dealer registration for foreign broker-dealers that effect trades with or for U.S. institutional investors through a U.S. registered broker-dealer, provided that the U.S. broker-dealer obtains certain information about, and consents to service of process from, the personnel of the foreign broker-dealer involved in such transactions, and maintains certain records in connection therewith. It is estimated that approximately 2,000 respondents will incur an average burden of three hours per year to comply with this rule.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Management and Budget, Paperwork Reduction Project number 3235–0371, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: April 6, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9395 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35581; File No. SR–BSE–94–05]

Self-Regulatory Organizations; the Boston Stock Exchange Inc.; Order Approving Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

April 7, 1995.

On February 21, 1995, the Boston Stock Exchange Incorporated (''BSE'') filed a proposed rule change (File No. SR–BSE–95–05) with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on March 8, 1995 to solicit comments from interested persons.[2] As discussed below, this order approves the proposed rule change.

I. Description

In October 1993, the Commission adopted Rule 15c6–1 under the Act[3] which establishes three business days after the trade date (''T+3''), instead of five business days (''T+5''), as the standard settlement cycle for most securities transactions. The rule will become effective on June 7, 1995.[4] Several of the BSE's rules are interrelated with the standard settlement time frame. The purpose of the proposed rule change is to amend BSE's rules to be consistent with a T+3 settlement standard for securities transactions.

Chapter II, Section 6 of BSE's definition of ''Regular Way,'' will be amended to require settlement of regular way transactions on the third business day after the trade.[5] Buyer's or seller's option trades will settle between four business days and 180 days following the contract date except that BSE may provide otherwise in specific issues or classes of securities. Next day trades will settle on the first or second business day following the date of the contract. Under Chapter X, Section 1, securities will trade without (*i.e.*, ''ex'') any dividend, right, or privilege on the second full business day preceding the record date except that when the record date is on a holiday the securities will trade ''ex'' on the third preceding full business day.

The proposed rule change also will amend Chapter XV, Section 14, ''Claims and Reports against Specialists,'' to shorten the time periods in which members can file claims of erroneous or omitted transactions against specialists. Claims regarding lack of a comparison of a reported transaction must be made within three days of the original trade date. Claims regarding the omission of reports and erroneous trade comparisons will have to be within five business days. The proposed rule

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 35422 (February 28, 1995), 60 FR 12793.

[3] 17 CFR 240.15c6–1 (1994).

[4] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adopting Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (changing effective date from June 1, 1995, to June 7, 1995).

[5] References to five-day delivery contained in Section 5 will be deleted.

change will amend Chapter XXVIII, subparagraph (4) to shorten by two days the time frames in which customers must provide their agent instructions for delivery versus payment and receipt versus payment instructions.

BSE has requested that the proposed rule change become effective on the same date as Rule 15c6–1. Rule 15c6–1 will become effective on June 7, 1995.[6]

II. Discussion

The Commission believes the proposal is consistent with the requirements of Section 6 of the Act.[7] Specifically, Section 6(b)(5) states that the rules of the exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information. The BSE rules and other self-regulatory organizations' rules currently establish the standard time frame for settlement of securities transactions. The proposal will conform those rules to the new settlement time frames mandated by Rule 15c6–1.

The Commission also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it protects investors and the public interest by reducing risks to clearing corporations, their members, and public investors which are inherent in settling securities transactions. The reduction of the time period for settlement of most securities transactions will correspondingly decrease the number of unsettled trades in the clearance and settlement system at any given time. Thus, fewer unsettled trades will be subject to credit and market risk, and there will be less time between trade execution and settlement for the value of those trades of deteriorate.[8]

III. Conclusion

For the reasons stated above, the Commission finds that BSE's proposal is consistent with Section 6 of the Act.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–BSE–95–05) be and hereby is approved and will become effective on June 7, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9396 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

[6] The transition from five day settlement to three day settlement will occur over a four day period. Friday, June 2, will be the last trading day with five business day settlement. Monday, June 5, and Tuesday, June 6, will be trading days with four business day settlement. Wednesday, June 7, will be the first trading day with three business day settlement. As a result, trades from June 2 and June 5 will settle on Friday, June 9. Trades from June 6 and June 7 will settle on Monday, June 12.

[7] 15 U.S.C. 78f (1988).

[8] *See* Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[9] 15 U.S.C. 78f (1988).

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30(a)(12) (1994).

[Release No. 34–35580; File No. SR–CSE–95–04]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

April 7, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 4, 1995, the Cincinnati Stock Exchange Incorporated (''CSE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by CSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CSE proposes to modify its rules to implement a three business day settlement standard for securities transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing wit the Commission, CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act which establishes three business days after the trade date (''T+3'') instead of five business days (''T+5'') as the standard settlement cycle for most securities transactions.[2] The rule will become effective June 7, 1995.[3]

Accordingly, in order to implement the new settlement standard established by Rule 15c6–1, the CSE proposes to amend the following rules. Currently, Rule 3.8(b)(1)(iii) provides that members receive reasonable assurance from the customer that a security will be delivered within five business days of the execution of the order. The CSE is proposing to replace the term ''five'' with the term ''three''. CSE also proposes to amend Rule 3.8(b)(2) which provides that members note on order tickets that the customer has the ability to deliver stock within five business days. The CSE is proposing to replace the term ''five'' with the term ''three''.

Rule 11.4 provides that transactions in stocks (other than those made for ''cash'') shall be ''ex-dividend'' or ''ex-rights'' on the fourth business day preceding the record date fixed by the company or the date of the closing of transfer books, except when the Board of Trustees of CSE otherwise. The CSE is proposing to replace the term ''fourth'' in this provision with the term ''second''. The rule also provides that should such record date or such closing of transfer books occur upon a day other than a business day this rule shall apply for the fifth preceding business day. The CSE is proposing to replace the term ''fifth'' with the term ''third''.

The CSE's implementation of this proposed rule change will be consistent with the ''T+3'' conversion schedule which the National Securities Clearing Corporation has proposed for industry use. The schedule is as follows:

Trade date	Settlement cycle	Settlement date
June 2 Friday	5 day	June 9 Friday.
June 5 Monday.	4 day	June 9 Friday.
June 6 Tuesday.	4 day	June 12 Monday.
June 7 Wednesday.	3 day	June 12 Monday.

If the Commission determines to alter the exemptions currently provided in Rule 15c6–1, CSE may need to undertake additional rule amendments. It is intended that the proposed rule change will become effective on the same date as Commission Rule 15c6–1.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[3] Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CSE consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of CSE. All submissions should refer to File No. SR–CSE–95–04 and should be submitted by May 8, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9397 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35589; File No. SR–NYSE–94–44]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Market-at-the-Close Order Handling Requirements for Expiration and Non-Expiration Days

April 10, 1995.

I. Introduction

On December 5, 1994, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its market-at-the close (''MOC'') order [3] handling requirements for expiration days and non-expiration days.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35210 (January 10, 1995), 60 FR 3690 (January 18, 1995). On April 3, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[4] No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Overview of Proposal

A. Background

The NYSE currently utilizes two sets of procedures for handling MOC orders, one for expirations days [5] and one for all other trading days. The Exchange's auxiliary closing procedures for expiration days have been approved on a pilot basis until October 31, 1995.[6] The pilot procedures establish a 3:40 p.m. deadline for (1) the entry of MOC orders related to a trading strategy involving an expiring index derivative product (*i.e.*, stock index options, stock index futures and options on stock index futures) and (2) the cancellation or reduction of any MOC order. Moreover, in the pilot stocks,[7] the specialist must, as soon as practicable after 3:40 p.m., disseminate any MOC order imbalance of 50,000 shares or more. Thereafter, MOC orders in the pilot stocks may be entered only to offset published imbalances; if there is no imbalance publication in a given pilot stock, no MOC orders may be entered in that stock.

The Exchange's closing procedures for non-expiration days have been approved on a permanent basis.[8] On those trading days, the specialist must, as soon as practicable after 3:45 p.m., disseminate any MOC order imbalance of 50,000 shares or more in (1) the pilot stocks and (2) any stock being added to or dropped from certain stock indexes (or, with Floor Official approval, from other stock indexes). A published imbalance (or the lack thereof) does not preclude the entry or cancellation of any MOC order on either side of the market.

B. Proposed Amendments

The Exchange proposes to amend its MOC order handling requirements for both expiration days and non-expiration days.[9] Under the NYSE proposal, on

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. *See* NYSE Rule 13.

[4] Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated March 31, 1995. Amendment No. 1 is further described at note 10, *infra*.

[5] The term ''expiration days'' refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently (''Expiration Fridays'') and (2) the trading day on which end of calendar quarter index options expire (''QIX Expiration Days'').

[6] *See* Securities and Exchange Act Release No. 34916 (October 31, 1994), 59 FR 55507 (November 7, 1994) (File No. SR–NYSE–94–32) (''1994 Pilot Approval Order'').

[7] The Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors (''S&P'') 500 stocks and any component stocks of the Major Market Index (''MMI'') not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

[8] *See* Securities Exchange Act Release No. 31291 (October 6, 1992), 57 FR 47149 (October 14, 1992) (File No. SR–NYSE–92–12).

[9] An Information Memo describing the amendments to the NYSE's auxiliary closing procedures will be issued before each expiration day. An Information Memo describing the amendments to the closing procedures for non-expiration days also will be issued upon approval of this proposal.

expiration days, all MOC orders, including orders not related to a trading strategy involving an expiring index derivative product, must be entered by 3:40 p.m. The proposed rule change will not affect either (1) the deadline for cancellation or reduction of MOC orders or (2) the imbalance dissemination procedures. After 3:40 p.m., however, MOC order entry will be permitted only to offset published imbalances in the pilot stocks.

The Exchange also proposes to adopt requirements for handling MOC orders on non-expiration days that are substantially similar to those in place for expiration days. As proposed, imbalance disseminations on non-expiration days will no longer be solely for information purposes. Specifically, the proposed rule change will establish a 3:50 p.m. deadline for the entry of all MOC orders and for the cancellation or reduction of such orders. In the pilot stocks, stocks being added to or dropped from an index and, upon the request of a specialists, any other stock with the approval of a Floor Official, the specialist will, as soon as practicable after 3:50 p.m., disseminate MOC order imbalances of 50,000 shares or more.[10] Thereafter, MOC orders may be entered only to offset published imbalances in the above stocks.[11]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[12] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

In recent years, the self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products. For instance, since 1986, the NYSE has utilized auxiliary closing procedures on expiration days. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make appropriate investment decisions in response. Based on the NYSE's experience,[13] the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days.

The Commission acknowledges the NYSE's concern that a last-minute influx or disappearance of MOC orders, whether related to a trading strategy involving index derivative products or otherwise, potentially could add to volatility at the close. Due to the influx of orders at the close on expiration days, even MOC orders that are not derivatives-related could cause temporary liquidity strains. Thus, for the reasons set forth below, the Commission has concluded that the proposed rule change should help NYSE specialists to effectuate an orderly closing in stocks that are not covered by the existing pilot program.

In this regard, the Commission notes that the proposed rule change will standardize the Exchange's closing procedures on expiration days and apply them to all NYSE-listed stocks. Specifically, on expiration days, the NYSE proposal will impose a 3:40 p.m. deadline for entry of *all* MOC orders. In conjunction with the prohibition on cancellation or reduction of any MOC order after 3:40 p.m., this requirement should allow the specialist to make a timely and reliable assessment, for every NYSE-listed stock, or MOC order flow and its potential impact on the closing price. While the Commission recognizes that 3:40 p.m. is relatively near the close, the Commission previously has determined that such a deadline strikes a reasonable balance between the need to effectuate an orderly closing and the need to avoid unduly infringing upon legitimate trading strategies.[14]

The amended procedures for expiration days will continue to require that, as soon as practicable after 3:40 p.m., NYSE specialists disseminate substantial imbalances in the pilot stocks. Thereafter, no MOC orders may be entered except to offset a published imbalance in a pilot stock. In this regard, the NYSE pilot program combines early submission of MOC orders with prompt dissemination of imbalances that reflect actual investor interest. As noted in prior Commission orders approving these procedures,[15] the NYSE should have sufficient opportunity to attract any contra-side interest necessary to alleviate substantial MOC order imbalances in the pilot stocks and to dampen their effect on the closing price.

Finally, under the proposed rule change, the NYSE will adopt MOC order handling requirements for non-expiration days that are substantially similar to those in place for expiration days. This will allow members and member organizations to follow comparable procedures at the close on all trading days.

Although there is less likelihood of an influx of MOC orders at the close on non-expiration days, certain trading and asset allocation strategies use NYSE closing prices and, accordingly, could employ MOC orders. The 3:50 p.m. deadline for MOC order entry and cancellation on non-expiration days should help the specialist make a timely and reliable assessment of MOC order flow and its potential impact on the closing price and also should ensure that any imbalance publications reflect actual investor interest. In the Commission's opinion, a 3:50 p.m. deadline strikes a more appropriate balance for non-expiration days (as opposed to the 3:40 p.m. deadline for expiration days) given the reduced likelihood of substantial MOC order imbalances due to derivatives-related trading strategies.

In the event of unusual market conditions, the Commission believes that the amended procedures for non-expiration days will offer benefits in terms of assessing volatility at the close of trading in the same manner as the

[10] Amendment No. 1 amended the NYSE's proposal to provide for the publications of imbalances of 50,000 shares or more to be made in any stock upon the request of a specialist and the approval of a Floor Official.

[11] This proposal will not have a material effect on the NYSE's limit-at-the-close ("LOC") order pilot. A LOC order is a limited price order entered for execution at the closing price if the closing price is within the limit specified. The Commission has approved LOC order entry on a pilot basis until July 15, 1995. *See* Securities Exchange Act Release No. 33706 (March 3, 1994), 59 FR 11093 (March 9, 1994) (File No. SR–NYSE–92–37). Under that pilot program, LOC orders may be entered only to offset a published imbalance of MOC orders (which, as proposed herein, will take place at 3:40 p.m. on expiration days and 3:50 p.m. on other trading days). The deadline for LOC order entry is 3:55 p.m. LOC orders are irrevocable on expiration days; on non-expiration days, cancellation of LOC orders is prohibited after 3:55 p.m. Currently, the NYSE permits LOC order entry in five of the pilot stocks. The NYSE has recently filed a proposed rule change with the SEC to amend its LOC pilot program and to extend the program for an additional year. *See* File No. SR–NYSE–95–09.

[12] 15 U.S.C. 78f(b) (1988 and Supp. V 1993).

[13] The NYSE has submitted to the Commission several monitoring reports describing its experience with the auxiliary closing procedures. For further discussion of the NYSE's results, *see* 1994 Pilot Approval Order, *supra*, note 6.

[14] *See, e.g.*, Securities Exchange Act Release No. 33639 (February 17, 1994), 59 FR 9295 (February 25, 1994) (File No. SR–BSE–93–04) (approving BSE proposal to adopt MOC procedures substantially similar to the NYSE's current pilot program).

[15] *See* 1994 Pilot Approval Order, *supra*, note 6.

NYSE's procedures for expiration days. Additionally, the Commission notes that, by permitting a Floor Official to authorize the publication of substantial MOC order imbalances on non-expiration days in any stock, the proposal should increase the information available to market participants and provide NYSE specialists with a mechanism, if necessary, to attract contra-side interest in any NYSE-listed stock.[16]

The Commission is approving the amendments to the NYSE's auxiliary closing procedures for expiration days as part of the existing pilot program that lasts until October 31, 1995. The Commission is approving the amendments to the NYSE's closing procedures for non-expiration days on a permanent basis.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 merely clarifies the scope of the original filing. Finally, the commission did not receive any comments on the original proposal, which was published in the **Federal Register** for the full comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules change that are filed with the Commission, and all written communications relating to Amendment No. 1 between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–44 and should be submitted by May 8, 1995.

[16] The Commission encourages the NYSE to propose a corresponding provision for expiration days that would provide for the dissemination of substantial MOC order imbalances on expiration days in stock other than pilot stocks.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSE–94–44) is approved, including Amendment No. 1 on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9398 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1994).

[Release No. IC–20992; International Series Release No. 801; 812–9414]

Banco de Comercio Exterior de Colombia S.A.; Notice of Application

April 11, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Banco de Comercio Exterior de Colombia S.A.

RELEVANT ACT SECTION: Order requested under section 6(c) for an exemption from all provisions of the Act.

SUMMARY OF THE APPLICATION: Applicant seeks an exemption under section 6(c) from all provisions of the Act. Applicant is a commercial bank owned and controlled by the Republic of Colombia. Applicant provides long- and short-term financing and specialized financial products to financial intermediaries. Applicant discounts loans that such financial intermediaries have made to finance Colombian exports and foreign trade-related activities. Applicant is in the process of establishing a global program for the issuance of debt securities.

FILING DATES: The application was filed on January 5, 1995 and amended on March 15, 1995 and April 11, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 4, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, D.C. 20549; Applicant, c/o Thomas A. Curtis, Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza, New York, NY 10006.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, (202) 942–0565, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a commercial bank owned and controlled by the Republic of Colombia (''Colombia,'' or the ''Republic''). Applicant provides long- and short-term financing and specialized financial products to support Colombian exports and foreign trade-related activities. Applicant was incorporated as the successor to the Export Promotion Fund, a fund formed in 1967 by the government of Colombia (the ''Government'') to promote Colombian exports.

2. The Republic owns 99.7% of applicant's share capital and controls the applicant within the meaning of section 2(a)(9) of the Act.[1] Applicant's Board of Directors consists of Government representatives, a representative of the private sector appointed by the President of the Republic, and a representative of the private sector appointed by the exporters' associations registered with the Ministry of Foreign Trade.

3. Applicant is authorized to operate under the same legal regime as a private commercial bank, without any limitation on the type of commercial banking activities in which it may engage. Applicant's activities, like those of other Colombian banks, are subject to extensive regulation by the principal

[1] The Government recently offered shares in applicant representing 11% of applicant's outstanding share capital to applicant's employees, pension funds, cooperatives, unemployment funds and other institutions. As a result of such offering, 0.28% of the Bank's outstanding share capital were purchased by such employees and institutions. The shares that were not subscribed for in such offering will eventually be offered by the Government to the public in Colombia. The Government does not intend to offer such shares in the United States. Even after such sale, the Government would continue to control applicant's operations within the meaning of section 2(a)(9) of the Act.

entities governing the Colombian banking and financial system. These entities include the Congress of Colombia, the National Council for Economic and Social Policy, the Central Bank, and the Banking Superintendency. The regulations applicable to applicant include licensing, capital adequacy, foreign currency position requirements, and restrictions on lending activities and related-party transactions.

4. At September 30, 1994, applicant had assets of Ps1,085,338 million (U.S. $1,290.7 million) and shareholders' equity of Ps403,768 million (U.S. $480.2 million).

5. Applicant operates primarily as a second-tier bank, extending loans to other commercial banks and finance companies in Colombia and abroad (collectively, ''Financial Intermediaries'') by discounting loans that such Financial Intermediaries have made to finance Colombian exporters and foreign trade-related activities as well as foreign buyers of Colombian goods and services. Applicant works together with the relevant Financial Intermediary in originating each discounted loan, both to ensure that the loan meets applicant's lending criteria and that the necessary funding will be available to the Financial Intermediary to make the loan. Applicant also takes physical possession of the promissory note for each loan, which is endorsed to applicant, to ensure recourse against the ultimate borrower in the event of a default by the Financial Intermediary.

6. Applicant does not purchase discounted loans from entities other than the loan originator, nor does it sell or otherwise trade in discounted loans. At September 30, 1994, approximately 99% of applicant's outstanding loans were discounted loans, with 62 Financial Intermediaries as obligors. Over 90% of these Financial Intermediaries are Colombian commercial banks and finance companies regulated in a manner substantially similar to applicant.

7. Applicant traditionally has relied on its shareholders' equity as the primary source of peso-denominated funds. Although applicant has the power under its charter to take deposits, it has not done so to date because most of applicant's loans are made in United States dollars, and funding such loans with peso deposits would be prohibitively expensive. To the extent applicant lends in pesos, its shareholders' equity provides a sufficient source of funds at a considerably lower cost than would be the case with deposits.

8. Applicant proposes a global program (the ''Program'') to issue and sell debt securities (the ''Notes''), the net proceeds of which will be used to expand applicant's foreign trade-related financing activities and for other general corporate purposes. The principal amount of Notes outstanding at any time will not exceed in the aggregate United States $300,000,000 (or its equivalent in other currencies at the date of issue), subject to future increases in the size of the Program. The Notes will not be obligations of, or guaranteed by, or otherwise backed by the credit of, the Republic of Colombia.

9. The Notes have not been and will not be registered under the Securities Act of 1933, as amended (the ''Securities Act'').[2]

All or a portion of a series of Notes may be offered for sale in the United States to ''qualified institutional buyers,'' as defined in Rule 144A under the Securities Act, in reliance on Rule 144A, or to institutional ''accredited investors,'' as defined in Rule 501(a) (1), (2), (3), and (7) under the Securities Act, that are not also qualified institutional buyers. All or a portion of a series of Notes also may be offered for sale in offshore transactions outside the United States in reliance on Regulation S under the Securities Act.

10. Applicant's intention is not to offer any Notes under the Program until the exemptive order sought hereby has been granted. Nevertheless, market conditions and applicant's funding needs may make it necessary to proceed with the first issuance under the Program prior to the granting of such order. In that case, applicant would offer an initial series of Notes (the ''Initial Notes'') to investors in the United States and abroad. In order to permit such offering to proceed while the present application for exemptive relief was being considered, applicant would impose special offering and resale restrictions on the Initial Notes (in addition to those required to comply with the Securities Act), including a limit on the number of U.S. resident holders that could hold the Initial Notes at any given time. Upon the granting of the exemptive order, such restrictions would be removed and resales of the Initial Notes, and any other Notes subject to such restrictions, would thereafter be subject only to the Securities Act restrictions applicable to the Program generally.

[2] Applicant does not hereby seek, and has not obtained, any assurance from the SEC regarding applicant's status prior to the issuance of any exemptive order on this application, nor has applicant received any assurance regarding the Notes' status under the Securities Act.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities having a value exceeding 40% of the issuer's total assets, exclusive of Government securities and cash items on an unconsolidated basis. Substantially all of applicant's assets consist of discounted loans. Such loans could be deemed to be investment securities within the meaning of section 3(a)(3). As a result, applicant recognizes, for purposes of this application only, that it could be deemed to be an investment company.

2. Rule 3a–6 exempts foreign banks from the definition of investment company for all purposes under the Act. A foreign bank is defined to include a banking institution engaged substantially in ''commercial banking activity,'' which, in turn, is defined to include ''accepting demand and other types of deposits.'' Although applicant is authorized to accept demand and other types of deposits, as a matter of policy it has chosen not to do so, and for this reason does not fall squarely within the terms of the exemption provided by rule 3a–6. Therefore, applicant may not be able to rely on rule 3a–6.

3. In adopting rule 3a–6, the SEC recognized that other financial entities might merit treatment similar to that afforded by the rule. The SEC indicated that such entities could file an application for individual exemptive relief under section 6(c) of the Act.[3] Applicant believes that the exemptive relief contemplated by the Adopting Release is appropriate in the present case. Applicant is an ''export-import bank'' and is similar in function to U.S. banks and other exempted entities. Applicant is licensed as a commercial bank in Colombia and is subject to extensive regulation by the Colombian authorities. Such regulation affords substantial protection to investors. In addition, applicant is controlled by the Government of Colombia.

4. Section 3(c)(5)(B) of the Act exempts from the definition of ''investment company'' any person that is not engaged in the business of issuing certain specified securities and that is primarily engaged in the business of ''making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified

[3] *See* Investment Company Act Release No. 18381 (Oct. 29, 1991), note 15 and accompanying text (the ''Adopting Release'').

merchandise, insurance, and services.'' Although other government-controlled export financing entities have obtained no-action relief under section 3(c)(5)(B), their lending activities were described as primarily sales financing; that is, the making of loans to either exporters or foreign buyers to finance particular sales transactions. Applicant was created to serve the same purpose as these other entities.

Applicant's loans can be described as indirect sales financing (goods cannot be exported unless they are first produced). The bulk of the loans extended by applicant, however, are ''preshipment'' loans, which finance the working capital needs of Colombian exporters, and are unlike the sales financing described in the no-action letters.

5. Applicant seeks an exemption under section 6(c) from all provisions of the Act. Applicant believes that it meets the standards for relief.

Applicant's Condition

Applicant agrees that the order granting the requested relief shall be subject to the following condition:

In connection with any offering of its securities in the United States, applicant will appoint an agent to accept any process which may be served on it in any action based on such securities and instituted in the Supreme Court of the State of New York or the United States District Court for the Sourthern District of New York by any holder of any such securities. Applicant further undertakes that it will expressly consent to the jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Southern District of New York in respect of any such action. Applicant also will waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of such securities have been paid. Applicant explicitly waives any immunity it may have from jurisdiction and from execution or attachment or any process in the nature thereof in respect of any suit, action or proceeding arising out of or relating to such securities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9399 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended April 7, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50262.
Date filed: April 4, 1995.
Parties: Members of the International Air Transport Association.
Subject: TC3 Telex Mail Vote 735 Russian Federation-Japan fares r-1—043i r-3—063i r-5—084c r-2—053i r-4—063ii.
Proposed Effective Date: April 10, 1995.

Docket Number: 50263.
Date filed: April 4, 1995.
Parties: Members of the International Air Transport Association.
Subject: PAC/Reso/388 dated March 28, 1995. Finally Adopted Resos r-1 to r-7.
Proposed Effective Date: June 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9315 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Conveyance and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 7, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50257.
Date filed: April 3, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 1, 1995.
Description: Application of Kuwait Airways Corporation, pursuant to Section 402(c) of the Act 1958, as amended, 49 U.S.C. Section 211, 5 U.S.C. Section 558(c) and Parts 211 and 377 of the Departments Regulations and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit authorizing Kuwait Airways to engage in scheduled air transportation of persons, property and mail between the State of Kuwait and the United States and charter operations.

Docket Number: 50260.
Date filed: April 4, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 2, 1995.
Description: Application of Ross Aviation, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations, requests scheduled and on-demand passenger transportation for exclusive service to the Department of Energy covering the contiguous 49 states of the United States.

Docket Number: 50261.
Date filed: April 4, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 2, 1995.
Description: Application of LorAir, Ltd., pursuant to 401(d)(3), of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing interstate and overseas charter air transportation.

Docket Number: 50269.
Date filed: April 6, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 1995.
Description: Application of Islena De Inversiones S.A. De C.V. D/B/A Islena Airlines, pursuant to 49 U.S.C. Section 40109 and Subpart Q of the Regulations, requests a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Honduras and Miami, Florida, New Orleans, Louisiana and Houston, Texas, and to engage in charter foreign air transportation of persons, property and mail.

Docket Number: 50274.
Date filed: April 7, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 5, 1995.
Description: Application of USAir, Inc., pursuant to 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing USAir to provide scheduled foreign air transportation of persons, property and mail between points in the United States and points in Canada.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9316 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004: telephone (202) 376–6441.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of Quarter	*Federal Register Publication*
10/1/90–12/31/90	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–6/30/91	56 FR 31984; 7/12/91
7/1/91–9/30/91	56 FR 51735; 10/15/91
10/1/91–12/31/91	57 FR 2299; 1/21/92
1/1/92–3/31/92	57 FR 12359; 4/9/92
4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
10/1/92–12/31/92	58 FR 5044; 1/19/93
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4/1/93–6/30/93	58 FR 42120; 8/6/93
7/1/93–9/30/93	58 FR 58218; 10/29/93
10/1/93–12/31/93	59 FR 5466; 2/4/94
1/1/94–3/31/94	59 FR 22196; 4/29/94
4/1/94–6/30/94	59 FR 39618; 8/3/94
7/1/94–12/31/94*	60 FR 4454; 1/23/95

*Due to administrative oversight, the index for the third quarter index of 1994, including information pertaining to the decisions and orders issued by the Administrator between July 1 and September 30, 1994, was not published on time. As a consequence, the information regarding the third quarter's decisions and orders, as well as the fourth quarter's decisions and orders in 1994, were included in the index published on January 23, 1995.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order numbered index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

The Administrator's final decisions and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

Civil Penalty Actions—Orders Issued by the Administrator—Order Number Index

(This index includes all decisions and orders issued by the Administrator from January 1, 1995, to March 31, 1995.)

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191	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
298.1	92–10 Flight Unlimited.
302.8	90–22 USAir.
49 CFR:	
1.47	92–76 Safety Equipment.
171.2	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
171.8	92–77 TCI.
172.101	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.200	92–77 TCI; 94–28 Toyota.
172.202	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.203	94–28 Toyota.
172.204	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.300	94–31 Smalling.
172.301	94–31 Smalling.
172.304	92–77 TCI; 94–31 Smalling.
172.400	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.402	94–28 Toyota.
172.406	92–77 TCI.
173.1	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
173.3	94–28 Toyota; 94–31 Smalling.
173.6	94–28 Toyota.
173.22(a)	94–28 Toyota; 94–31 Smalling.
173.24	94–28 Toyota.
173.25	94–28 Toyota.
173.27	92–77 TCI.
173.115	92–77 TCI.
173.240	92–77 TCI.
173.243	94–28 Toyota.
173.260	94–28 Toyota.
173.266	94–28 Toyota; 94–31 Smalling.
175.25	94–31 Smalling.
821.30	92–73 Wyatt.
821.33	90–21 Carroll.

Statutes

5 U.S.C.:	
504	90–17 Wilson; 91–17 & 92–71 KDS Aviation; 92–74, 93–2 & 93–9 Wendt; 93–29 Sweeney; 94–17 TCI.
552	90–12, 90–18 & 90–19 Continental Airlines; 93–10 Costello.
554	90–18 Continental Airlines; 90–21 Carroll.
556	90–21 Carroll; 91–54 Alaska Airlines.
557	90–20 Degenhardt; 90–21 Carroll; 90–37 Northwest Airlines; 94–28 Toyota.

11 U.S.C.:	
362	91–2 Continental Airlines.
28 U.S.C.:	
2412	93–10 Costello.
2462	90–21 Carroll.
49 U.S.C. App.:	
1301(31) (operate)	93–18 Westair Commuter.
(32) (person)	93–18 Westair Commuter.
1356	90–18 & 90–19, 91–2 Continental Airlines.
1357	90–18 & 90–19, 91–2 Continental Airlines; 91–41 [Airport Operator]; 91–58 [Airport Operator].
1421	92–10 Flight Unlimited; 92–48 USAir; 92–70 USAir; 93–9 Wendt.
1429	92–73 Wyatt.
1471	89–5 Schultz; 90–10 Webb; 90–20 Degenhardt; 90–12, 90–18 & 90–19 Continental Airlines; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–37 Northwest Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 91–53 Koller; 92–5 Delta Air Lines; 92–10 Flight Unlimited; 92–46 Sutton-Sautter; 92–51 Koblick; 92–74 Wendt; 92–76 Safety Equipment; 94–20 Conquest Helicopters; 94–40 Polynesian Airways.
1475	90–20 Dengenhardt; 90–12 Continental Airlines; 90–18, 90–19 & 91–1 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 94–40 Polynesian Airways.
1486	90–21 Carroll.
1809	92–77 TCI; 94–19 Pony Express; 94–28 Toyota; 94–31 Smalling.

Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of March 31, 1995)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of each decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from January 1, 1995, to March 31, 1995. The FAA will publish noncumulative supplements to the compilation on a quarterly basis (e.g. April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Diamond Aviation, Inc.

Order No. 95–1 (1/27/95)

Appeal Dismissed. Complainant withdrew its notice of appeal. The appeal is dismissed.

In the Matter of Harry Allan Meronek

Order No. 95–2 (2/14/95)

Appeal Dismissed. Respondent failed to show good cause for his failure to file a timely notice of appeal. His appeal is dismissed.

In the Matter of Delta Air Lines, Inc.

Order No. 95–3 (3/28/95)

Appeal Dismissed. Complainant withdrew its notice of appeal. The appeal is dismissed.

In the Matter of Dean Hanson

Order No. 95–4 (3/30/95)

Appeal Dismissed. Respondent failed to perfect his appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

In June 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily, 1156 15th Street, NW, Washington, DC 20005, (202) 822–4669;

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street East, Rochester, NY 14694, (716) 546–1490.

The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483, is placing the decisions on CD–ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on the following computer databases: Compuserve; Fedix; and GENIE.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430; (718) 553–1035.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 4400 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 297–1270.

Issued in Washington, DC on April 6th, 1995.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 95–9403 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

International Standards on the Transport of Radioactive Materials; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to discuss issues to be considered at the International Atomic Energy Agency (IAEA) Technical Committee Meeting (TCM) to be held May 15–19, 1995 in Vienna, Austria. A TCM is a meeting of experts from member nations assembled to address particular aspects of a particular proposal.

DATES: May 9, 1995 at 10:00 a.m.

ADDRESSES: Room 8334, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Boyle, Chief, Radioactive Materials Branch, Office of Hazardous Materials Technology, Department of Transportation, Washington, DC 20590; (202) 366–4545.

SUPPLEMENTARY INFORMATION: This meeting will be held to discuss several issues being considered at the TCM to be held in Vienna, Austria, on May 15–19, 1995. In general terms, this TCM is responsible for recommending solutions to the fourth and final Safety Series No. 6 revision panel to be held in September 1995 on the following technical issues:

1. The proposals and recommendations made by the eleventh meeting of the IAEA Standing Advisory Group for the Safe Transport of Radioactive Material (SAGSTRAM XI, March 1995), the third meeting of the panel working to revise Safety Series No. 6 (October 1994), and TCM–675.3 on the Air Transport of Radioactive Material (August 1994) concerning the air transport of radioactive material in large quantities or with high activity. Specifically, this TCM will discuss the possible exemption of low dispersible material from these air transport requirements.

2. The proposals and recommendations made by the eleventh meeting of the IAEA Standing Advisory Group for the Safe Transport of Radioactive Material (SAGSTRAM XI, March 1995), the third meeting of the panel working to revise Safety Series No. 6 (October 1994), and the interim results of consolidated research project on exemption quantities concerning the establishment of new, radionuclide specific exemption values for the transport of radioactive materials.

The public is invited to attend without prior notification.

Documents

Copies of documents relating to the issues to be covered at the TCM are on file in RSPA's Dockets unit (Nassif Building, Room 8421) and may be viewed Monday–Friday from 8 am to 4:30 pm. Documents may also be ordered by contacting RSPA's Dockets Unit at (202) 366–4453.

Issued in Washington, DC, on April 6, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–9317 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–22; OTS No. 3970]

First Federal Savings and Loan Association of San Gabriel Valley, West Covina, California; Approval of Conversion Application

Notice is hereby given that on April 5, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of San Gabriel Valley, West Covina, California, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: April 11, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–9298 Filed 4–14–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–21; OTS No. 4312]

Logansport Savings Bank, FSB, Logansport, Indiana; Approval of Conversion Application

Notice is hereby given that on April 5, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Logansport Savings Bank, FSB, Logansport, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 11, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–9299 Filed 4–14–95; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 73

Monday, April 17, 1995

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).

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1475]

TIME AND DATE: 9 a.m. (EDT), April 19, 1995.

PLACE: TVA Chattanooga Office Complex, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on March 15, 1995.

ACTION ITEMS:

New Business

C—Energy

C1. Adoption of a TVA-side Internal Energy Management Policy committing TVA to leadership in efficient and environmentally sound use of energy, and delegation of authority to the Chief Operating Officer, or his designee, to appoint a TVA representative to the Federal Interagency Energy Policy Committee to develop and modify an energy management plan to achieve the objectives of the policy.

C2. Personal services contract with NUMANCO to provide radiological control technicians at TVA nuclear sites.

E—Real Property

E1. Deed modification affecting approximately 0.074 acre of private land on Kentucky Lake in Benton County, Tennessee, Tract NO. XGIR–606, to clear an existing title problem and resolve a deed violation.

E2. Amendment of the Kentucky Reservoir Land Management Plan to change the allocated uses from public recreation and visual management to commercial recreation for a 4-acre portion of Tract No. XGIR–6PT in Livingston County, Kentucky, and sale of a permanent recreation easement for the same area to Tullar Enterpries, which is being designated as Tract No. XGIR–923RE.

E3. Grants of permanent easements to Hamilton County, Tennessee, for a sewage pump station and sewerlines affecting approximately 1.61 acres on Chickamauga Lake, Tract Nos. XTCR–186PS and 187S.

Information Items

1. Implementation of the decision of the Secretary of Labor in the wage dispute involving the International Brotherhood of Electric Workers resulting from the 56th Annual Wage Conference in 1991.

2. New investment managers and proposed new Investment Management Agreements between the Tennessee Valley Authority Retirement System, Equitable Asset Management, Inc., and Bradford & Marzec, Inc.

3. Revisions to interruptible power programs offering limited firm power and modifications to limited interruptible power and economy surplus power programs.

4. Commodity-based rate for SKW Metals and Alloys, Inc.

5. Supplement to Contract No. TV–92582V with Fitzgerald & Company for advertising support.

6. Settlement of claims and transfer of contract with Southern Illinois Mining Company, Inc.

FOR MORE INFORMATION:

Please call TVA Public Relations at (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: April 12, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–9468 Filed 4–13–95; 3:15 pm]

BILLING CODE 8120–08–M

Corrections

Federal Register

Vol. 60, No. 73

Monday, April 17, 1995

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 THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 152—Final

Correction

In notice document 95–8625 beginning on page 17797 in the issue of Friday, April 7, 1995, make the following corrections:

On pages 17802 through 17804, the land descriptions are republished as follows:

Central Gulf of Mexico Leased Lands

March 20, 1995

Description of blocks listed represent all Federal acreage leased unless otherwise noted.

Sabine Pass

3, 6, 7, 8, 9, 10, 11, 12, 13, 14

West Cameron

17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 34, 35, 36, 38, 39, 41, 42, 43, 44, 45, 47, 48, 49, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 91, 92, 93, 95, 97, 98, 99, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 128, 130, 131, 132, 133, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 153, 165, 166, 167, 168, 170, 171, 172, 173, 174, 176, 177, 178, 179, 180, 181, 183, 184, 191, 192, 193, 194, 196, 197, 198, 199, 200, 201, 202, 205, 206, 207, 211, 212, 213, 215, 216, 222, 224, 225, 226, 229, 230, 231, 236, 237, 238, 239, 240, 242, 244, 245, 246, 248, 249, 250, 252, 253, 254, 255, 256, 258, 259, 261, 264, 265, 266, 269, 275, 276, 277, 279, 280, 282, 284, 285

West Cameron, West Addition

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West Cameron, South Addition

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East Cameron

2, 9, 11, 12, 14 (E½NW¼; NE¼)(Landward of 8(g) Line), 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 31, 32, 33, 34, 36, 37, 38, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 55, 56, 57, 58, 60, 62, 63, 64, 65, 66, 67, 70, 71, 72, 75, 76, 77, 78, 81, 82, 83, 84, 87, 88, 89, 92, 94, 95, 96, 103, 104, 106, 109, 110, 111, 112, 114, 115, 116, 117, 118, 119, 122, 123, 125, 129, 131, 132, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 148, 149, 151, 152, 153, 154, 155, 157, 158, 160 (E½), 169, 170, 171, 172, 176, 178, 179, 182, 184, 185, 188, 189, 190, 192, 193, 194 (E½E½SE¼), 195 (S½), 196, 199, 200, 201, 203, 204 (N½N½), 205, 211, 213, 214, 215, 218, 219, 220, 221, 222, 223, 226, 227, 229, 230, 231, 232, 234, 235

East Cameron, South Addition

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Vermilion

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Vermilion, South Addition

252, 253, 255, 256, 257, 258, 261, 262, 265, 266, 267, 268, 270, 271, 272, 273, 275, 276, 277, 279, 280, 282, 284, 286, 287, 288, 289, 290, 291, 292, 294, 295, 296, 297, 298, 299, 300, 301, 302, 304, 305, 306, 307, 308, 309, 310, 311, 313, 314, 315, 317, 318, 319, 320, 321, 325, 326, 327, 328, 329, 330, 331, 332, 333, 335, 336, 337, 338, 339, 340, 341, 342, 343, 347, 348, 349, 350, 352, 355, 357, 358, 359, 362, 363, 365, 367, 368, 369, 370, 371, 372, 374, 375, 376, 377, 378, 379, 380, 384, 385, 386, 389, 393, 394, 395, 397, 398, 399, 400, 404, 405, 406, 407, 409, 410, 412

South Marsh Island, North Addition

207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220 (Landward of lease 0310 stip. Line), 221 (Landward of lease 0310 stip. Line), 222, 223, 224, 225, 226, 227, 228, 229, 230 (Landward of lease 0310 stip. Line), 231 (Landward of lease 0310 stip. Line), 232, 233, 234, 235 (Landward of lease 0310 stip. line; portion more than 3 marine leagues swd. of a line connecting Tiger Pt. & Shell Keys), 236, 237, 238, 239, 240, 241 (Landward of lease 0310 stip. Line), 242 (Landward of lease 0310 stip. Line), 243, 244, 245, 249, 250, 251, 252, 253, 255, 256, 257, 260, 261, 262, 265, 266, 268, 269, 272, 274, 275, 276, 277, 278, 280, 281, 282, 283, 285, 286, 287, 288

South Marsh Island

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South Marsh Island, South Addition

71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 90, 91, 92, 93, 95, 96, 97, 99, 102, 103, 106, 107, 108, 109, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 136, 137, 139, 140, 141, 142, 143, 144, 145, 146, 147, 149, 150, 151, 154, 155, 156, 158, 160, 161, 164, 166, 171, 172, 173, 174, 175, 176, 178, 182, 187, 188, 189, 190, 192, 193, 194, 195, 196, 197, 198, 199, 204, 205

Eugene Island

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Eugene Island, South Addition

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Ship Shoal

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Monday
April 17, 1995

Part II

Department of Labor

Employment Standards Administration
Wage and Hour Division

29 CFR Part 570
Child Labor Regulations, Orders and Statements of Interpretation; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

29 CFR Part 570

RIN 1215–AA89

Child Labor Regulations, Orders and Statements of Interpretation

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document revises Subpart C (Child Labor Reg. No. 3) to provide an exception from the permissible hours and time standards for minors 14 and 15 years of age when employed as attendants in professional sports, and to change the procedure for obtaining occupational variances for 14- and 15-year-olds enrolled in Work Experience and Career Exploration Programs. Other revisions to update these regulations delete the exception contained in § 570.35(b) for enrollees in work training programs conducted under the Economic Opportunity Act of 1964, which has been repealed, and the procedures relating to hazardous occupation determinations in Subpart D (Child Labor Reg. 5), which have been made obsolete by the Administrative Procedure Act (APA), 60 Stat. 237.

EFFECTIVE DATE: This rule is effective May 17, 1995.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, N.W. Washington, D.C. 20210. Telephone (202) 219–8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION

I. Paperwork Reduction Act

These rules contain no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The information collection requirements contained § 570.35a were previously approved by the Office of Management and Budget under OMB control number 1215–0121. While minor revisions are made in the procedure in § 570.35a(c)(3) for obtaining a variance from work-activities otherwise prohibited for 14- and 15-year-olds, the information needed by State Education Agencies to support variance requests is not materially different under the final rule. The general FLSA information collection requirements (including requirements contained in Part 570) were approved by the Office of Management and Budget under the control number 1215–0017.

II. Background

The Secretary of Labor is authorized by the Fair Labor Standards Act (FLSA) to provide by regulation for the employment of young workers under age 18. These regulations are contained in 29 CFR part 570. The regulations for 14- and 15-year-olds are known as Child Labor Regulation No. 3 (Reg. 3) and are contained in subpart C of 29 CFR part 570.

The Department published a notice of proposed rulemaking in the **Federal Register** on May 13, 1994 (59 FR 25164) inviting comments until July 12, 1994, on an exception from the permissible hours and time standards in Child Labor Regulation No. 3 (Reg. 3), subpart C of 29 CFR part 570, for 14- and 15-year-olds employed as attendants in professional sports. The notice also proposed technical modifications in § 570.35a of Reg. 3 to facilitate applications for certification under the Work Experience and Career Exploration Program (WECEP); the deletion of the exception contained in § 570.35(b) of Reg. 3 for enrollees in work training programs conducted under the now repealed Economic Opportunity Act of 1964; and the deletion of 29 CFR part 570, subpart D (Child Labor Reg. 5) because of the procedures provided by the Administrative Procedure Act (APA), 60 Stat. 237.

A total of 26 comments were received in response to the notice—from employers, trade and professional associations, advocacy organizations, State governments, and others, including the National Institute of Occupational Safety and Health (NIOSH).

Summary of Major Comments

I. 14- and 15-Year-Olds Employed as Sports Attendants

The Secretary proposed a narrow exemption to the Reg. 3 hours and time of day regulations so that 14- and 15-year-old minors may work as attendants in professional sports. The proposed rule would exempt 14- and 15-year-olds performing ''sports-attending services at professional sporting events'' from the regulations restricting the hours and time of day they may be employed, ''provided that the duties of the sports-attendant occupation consist of [certain specific sports-related duties].'' Based on careful consideration of the comments and other available information, the Secretary has determined that such an exemption would not be inconsistent with the FLSA's prohibitions against oppressive child labor, provided the minors work outside of school hours and they perform work that is limited to the traditional duties of typical sports attendants, i.e., specifically sports-connected duties.

As indicated in the preamble to the Proposed Rule, the Department conducted a study of the employment of sports attendants in professional baseball during 1986 and 1987. Congress mandated the study to determine whether a change in the permissible hours of employment for sports attendants would be detrimental to their schooling and health and well-being and whether any changes to the existing standards should be proposed. The study concluded that changes in the permissible hours and time standards for the employment of sports attendants in baseball would not interfere with their schooling and their health and well-being. The Secretary believes that the results of the study are equally applicable to other professional sports.

The Department received comments from eight minor league professional baseball teams supporting the Proposed Rule. These organizations stressed the unique and rewarding opportunity that the sports-attendant experience offers to young people. In addition, these commenters emphasized the benefits to young people of engaging in a healthy activity which can be a formative, character building experience. As the Fort Myers Miracle Baseball Club stated: ''There is no other environment equal to professional sports where a young man or woman has a chance to interact with local and national role models in a wholesome, family-oriented atmosphere while also being exposed to practicalities of the business world.''

The New York State Education Department concurred with the proposed exemption, while emphasizing the importance of having the rule specify activities that are acceptable for a sports-attendant to perform, as well as those that are impermissible.

Three advocacy groups (National Consumer League, Child Labor Coalition, and National PTA) and a labor organization (Food & Allied Service Trades) opposed the proposed rule, based on their concern that the increased hours and late time of day would be deleterious to the young people's health, safety, and education. The National PTA opposed lifting the current 18-hour per week restriction,

and suggested a case by case evaluation of a student's school attendance and academic record in determining whether a young person should work long hours. Two of the advocacy groups suggested that the proposed rule should be limited to professional baseball.

Commenters representing the restaurant industry objected to the narrow exemption for sports-attendants, asserting it was unfair to exempt the sports industry from the hours and time restrictions while leaving the restrictions in place for all other employment.

The Secretary finds that this exemption from the existing hours and time of day restrictions to permit 14- and 15-year-olds to work as attendants in professional sports will not constitute oppressive child labor under the FLSA, provided that the employment is limited to traditional duties of typical sports-attendants and that 14- and 15-year-old minors are not employed during school hours. The employment of 14- and 15-year-olds as sports-attendants under the terms of the regulation will provide positive, formative experiences to the young people without interfering with their schooling or their health and well-being. Such experiences are commonly regarded as opportunities to associate with individuals possessing attributes of success and achievement, *i.e.*, mentors or role models, and in some cases, ''heroes,'' and are genuinely enjoyed by participating youths.

While the Secretary is sensitive to the concerns of commenters who expressed views that the minors' school work will be adversely affected, there is an absence of evidence that sports-attending work interferes with their schooling. Further, it is the Secretary's view that end-of-day and weekly time restrictions add burdens on employers that would likely discourage the sports organizations from providing these employment experiences altogether. The Secretary has concluded, on balance, and in light of the lack of specific information to the contrary, that working as sports-attendants will not interfere with the schooling and health and well-being of the 14- and 15-year-old minors. Based on the comments, the Secretary believes that narrowly tailoring the exemption to 14- and 15-year-old minors working as attendants in professional sports will enable young people to participate in a memorable and unique work experience.

The Secretary emphasizes that the work to be performed by sports-attendants is strictly limited to those duties that would bring them into personal contact with the players and coaches, and in so doing, would provide the young people with role models. Permissible duties of the sports-attendant include: Pre- and post-game or practice setup of balls, items, and equipment; supplying and retrieving balls, items, and equipment during a sporting event; clearing the field or court of debris, moisture, etc. during play; providing ice, drinks, towels, etc. to players during play; running errands for trainers, managers, coaches, and players before (pre-game set-up and player warm-up), during, and after (post-game activities) a sporting event; and returning and/or storing balls, items and equipment in club house or locker room after a sporting event. For purposes of this exception, impermissible duties include grounds or field maintenance such as grass mowing, spreading or rolling tarpaulins used to cover playing areas, etc.; cleaning and repairing equipment; cleaning locker rooms, showers, lavatories, rest rooms, team vehicles, club houses, dugouts, or similar facilities; loading and unloading balls, items, and equipment from team vehicles before and after a sporting event; doing laundry and working in concession stands or other selling and promotional activities.

With respect to comments seeking special treatment for work experiences beyond sports-attending, the Department published in the **Federal Register** (59 FR 25167) an advance notice of proposed rulemaking requesting the views of the public on any changes they felt were necessary in the child labor regulations (29 CFR part 570). The comment period ended October 11, 1994, and the Department expects to publish a notice of proposed rulemaking during 1995. Interested parties will have an opportunity to offer comments on matters of permissible employment of minors under 18 years of age at that time. In light of this separate rulemaking process, it would be inappropriate for the Department to address such issues in this limited final rule.

II. WECEP Occupational Variations for 14- and 15-Year-Olds

The Department proposed a revision in § 570.35a which provides for the employment of 14- and 15-year-olds in a State-approved, school-supervised Work Experience and Career Exploration Program (WECEP).[1] Enrollees in approved WECEPs may be employed for up to 23 hours in school weeks, 3 hours on school days, and during school hours, in occupations other than: (1) Those in manufacturing and mining; (2) those declared to be hazardous for the employment of minors under 18 years of age (set forth in subpart E of the regulations); (3) those declared to be hazardous for employment of minors below the age of 16 in agriculture (set forth in subpart E–1 of the regulations); or (4) those not permitted for minors aged 14 and 15 years (set forth in §§ 570.33 and 570.34 of the regulations (Reg. 3)).

The regulations at § 570.35a(c)(3) allow the Administrator of the Wage and Hour Division to approve a variation from the Reg. 3 prohibited occupations in individual cases or classes of cases after notice to interested parties and an opportunity to furnish views. The Department had consistently approved variations for particular activities requested in State Educational Agency applications for WECEP program approval. The Department proposed to amend the WECEP regulations to provide, in effect, a limited exception to the Reg. 3 occupations restrictions for WECEP participants engaged in the following activities:

(1) Using a deep fryer or cooking at a grill with a maximum temperature of 375 degrees;

(2) Operating power-driven mowers, weed-eaters, trimmers and whips with nylon string only;

(3) Retrieving and/or placing food in coolers/freezers;

(4) Loading and unloading goods weighing up to 30 lbs. provided that such work does not exceed 30 percent of the minor's weekly hours worked; and

(5) Operating noncommercial dishwashers.

The WECEP proposal also retained a provision for obtaining other variations from Reg. 3 occupational restrictions in special circumstances where a WECEP program applicant was able to demonstrate that the program would provide safe and suitable employment.

Of the sixteen commenters addressing this proposal, two (State of Ohio's Department of Education; National Council of Chain Restaurants) endorsed the proposed changes, including the specific work activity exceptions. The State of Ohio indicated that their WECEP program provides both general and job specific safety training, and that there were no reports of student employee injuries related to work in the activities which are the subject of this rulemaking. Four employer commenters

[1] Twelve States have Departmental approval to operate WECEP programs in the 1994–95 school-year. A condition for approval of such programs is that they provide sufficient safeguards to ensure that the employment will not interfere with the schooling of the minors or with their health and well-being.

(two fast food restaurant franchises, a supermarket company, and a restaurant), endorsed the proposal and suggested that the regulations should be broadened beyond WECEP to generally permit 14- and 15-year-olds to cook, bake, make french fries and onion rings, unload stock trucks, or enter walk-in coolers.

Twelve commenters opposed either some or all of the proposed exceptions from work activities otherwise prohibited for 14- and 15-year-olds not participating in a WECEP. These commenters include two public health organizations (National Institute of Occupational Safety and Health (NIOSH); American Public Health Association (APHA)); one union (Food and Allied Services Trades (FAST)); one employer (Sugar Plum, Inc.); four public interest and child advocacy groups (Child Labor Coalition; National Consumers League; Parent Teachers Association; and the American Academy of Pediatrics); and four State government entities (State of Kansas Department of Human Resources; State of Kansas Department of Health and Environment; State of Washington Department of Labor and Industries; and University of Massachusetts Occupational Health Program). Several of these commenters referred to particular studies or data on work-related injuries to support their contentions that all or certain of the work activities for which a variation was proposed (*e.g.*, cooking at grills or deep fryers) were particularly dangerous for 14- and 15-year-olds, that coolers/freezers require further evaluation to determine whether appropriate safeguards would make it possible for WECEP participants to work in and around them safely, and that any variation from existing work restrictions should be linked to supervision and safety and health training appropriate for WECEP employees in activities approved by variation.

The comments opposing the proposed work-activity exceptions for WECEP participants are persuasive, and, on review, the Department has concluded that automatic exceptions for certain work-activities are inappropriate. Accordingly, the final rule modifies the procedure governing WECEP variations to create a clearer process which is less of a departure from the Reg. 3 restrictions than was the proposed rule's procedure. The Wage and Hour Administrator's long-established WECEP variation discretion is maintained, and requests for variations from the work-activities prohibited by Reg. 3 will continue to be considered where specified standards are met. Under the revised procedure, such requests will be reviewed on a case-by-case basis based on information furnished by the applicant State Educational Agency. The applicant will be expected to demonstrate that the activity under the State program for which the variation is requested will not interfere with the WECEP participant's schooling, health, or well-being. For example, the applicant will be expected to show that the work to be performed by the student(s) is safe; that adequate job training will be provided, including safety related training; that teacher-coordinators and work site supervisors will provide adequate supervision; and that employers in the program have not experienced job-related injuries of similarly employed 14- and 15-year-old students. The variation provision in the Final Rule also allows any interested party to review any application, to oppose the approval of a variation, and to request reconsideration of a previously approved variation.

III. Deletion of Subpart D (Child Labor Reg. 5)

The Department proposed to delete the regulations known as Child Labor Reg. 5 (Reg. 5), which provide a procedure for the Secretary to promulgate or amend hazardous occupation orders (HOs). The proposal to repeal Reg. 5 was based on the conclusion that its procedural requirements have been largely superseded by the Administrative Procedure Act (APA), 60 Stat. 237, which control DOL rulemaking, and that the APA provides greater administrative flexibility.

Only three commenters addressed the proposed deletion of Reg. 5. The National Consumers League and the Child Labor Coalition agreed with the Department's conclusion that the notice and comment procedures of the APA effectively obviated the need for Reg. 5, which was first promulgated in 1938, prior to enactment of the APA. The National Automobile Dealers Association, on the other hand, argued that Reg. 5 establishes a clear procedural framework for the promulgation and amendment of HOs which should be retained. Instead of repeal, they urged the Department to make whatever technical changes were needed to maintain consistency with the APA. After reviewing these comments, the Department believes that it is necessary to streamline regulatory procedures and eliminate redundant provisions wherever possible, and, therefore, has decided to adopt the proposal as a final rule.

IV. Deletion of § 570.35(b)

No comments were received on the proposal to delete the exception contained in § 570.35(b) for enrollees in work training programs conducted under the Economic Opportunity Act of 1964. The exception is unnecessary due to the repeal of the 1964 Act, and the proposal is adopted as a final rule.

Executive Order 12866

This rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. It revises the permissible hours and time standards to permit greater flexibility in the employment of 14- and 15-year-olds as professional sports attendants. While these changes are expected to enhance opportunities for employment, the impact on overall employment levels of 14- and 15-year-olds is modest. Other changes are technical in nature and are expected to have only a minor impact on the employment of 14- and 15-year-olds. Accordingly, these changes are not expected to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. As indicated in the preamble to the proposed rule (59 FR 25164, May 13, 1994), the change to provide an exception from the permissible hours and time standards for minors 14 and 15 years of age when employed as attendants in professional sports has narrow application and will affect only a limited number of employers of which some may be considered small entities. Although the other technical changes may affect small entities, the impact is believed to be insignificant. Thus, this rule will not have a significant economic impact on a substantial number of small entities, and the Secretary of labor has certified to this effect to the Chief Counsel for

Advocacy of the Small Business Administration. A regulatory flexibility analysis is not required.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Child labor, Child labor occupations, Employment, Government, Intergovernmental relations, Investigations, Labor, Law enforcement, Minimum age.

Accordingly, 29 CFR part 570 of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, DC, on this 7th day of April 1995.

Robert B. Reich,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Maria Echaveste,

Administrator, Wage and Hour Division.

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570 continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

2. In § 570.35 of subpart C, paragraph (b) is revised to read as follows:

§ 570.35 Periods and conditions of employment.

* * * * *

(b) In the case of minors 14 and 15 years of age who are employed to perform sports-attending services at professional sporting events, *i.e.*, baseball, basketball, football, soccer, tennis, etc., the requirements of paragraphs (a)(2) through (a)(6) of this section shall not apply, provided that the duties of the sports-attendant occupation consist of pre- and post-game or practice setup of balls, items and equipment; supplying and retrieving balls, items and equipment during a sporting event; clearing the field or court of debris, moisture, *etc.* during play; providing ice, drinks, towels, *etc.*, to players during play; running errands for trainers, managers, coaches, and players before, during, and after a sporting event; and returning and/or storing balls, items and equipment in club house or locker room after a sporting event. For purposes of this exception, impermissible duties include grounds or field maintenance such as grass mowing, spreading or rolling tarpaulins used to cover playing areas, *etc.;* cleaning and repairing equipment; cleaning locker rooms, showers, lavatories, rest rooms, team vehicles, club houses, dugouts or similar facilities; loading and unloading balls, items, and equipment from team vehicles before and after a sporting event; doing laundry; and working in concession stands or other selling and promotional activities.

3. Section570.35a(c)(3) of subpart C is revised to read as follows:

§ 570.35a Work experience and career exploration programs.

* * * * *

(c) * * *

(3) Occupations other than those permitted under §§ 570.33 and 570.34, except upon approval of a variation by the Administrator of the Wage and Hour Division in acting on the program application of the State Educational Agency. The Administrator shall have discretion to grant requests for special variations if the applicant demonstrates that the activity will be performed under adequate supervision and training (including safety precautions) and that the terms and conditions of the proposed employment will not interfere with the health or well-being or schooling of the minor enrolled in an approved program. The granting of a special variation is determined on a case-by-case basis.

(i) The Administrator's decision on whether to grant a special variation will be based on information provided in the application filed by the State Educational Agency, and/or any supplemental information that may be requested by the Administrator.

(ii) The Administrator's decision shall be in writing, and may designate specific equipment safeguards or other terms and conditions governing the work-activity approved by variation. If the request is denied, in whole or part, the reason(s) for the decision will be provided to the applicant, who may request reconsideration.

(iii) A special variation will be valid only during the period covered by an approved program, and must be renewed with the filing of a new program application.

(iv) The Administrator shall revoke or deny a special variation, in whole or in part, where there is reason to believe that program participants have been or will be employed contrary to terms and conditions specified for the variation, or these regulations, other provisions of the Fair Labor Standards Act, or otherwise in conditions detrimental to their health or well-being or schooling.

(v) Requests for special variations and related documentation will be available for examination in the Branch of Child Labor and Polygraph Standards, Wage and Hour Division, Room S3510, 200 Constitution Avenue, NW., Washington, DC 20210. Any interested person may oppose the granting of a special variation or may request reconsideration or revocation of a special variation. Such requests shall set forth reasons why the special variation should be denied or revoked.

* * * * *

Subpart D—[Removed and Reserved]

4. Subpart D, consisting of §§ 570.41 through 570.49, is removed and reserved.

[FR Doc. 95–9328 Filed 4–14–95; 8:45 am]

BILLING CODE 4510–27–M

federal register

Monday
April 17, 1995

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 227

Endangered and Threatened Species; Status of Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 950412102–5102–01; I.D. 072594B]

Endangered and Threatened Species; Status of Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon

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

ACTION: Final rule.

SUMMARY: This Final Rule corrects an error in an emergency rule expiring on April 17, 1995. The emergency rule was published with an error in the amendatory language resulting in the accidental removal of all protective regulations for the species upon expiration of the emergency rule. This final rule will reinstate protection for Snake River spring/summer chinook and Snake River fall chinook salmon (*Oncorhynchus tshawtyscha*) by returning the inadvertently omitted rule language providing for their conservation as threatened species.

EFFECTIVE DATE: 12:01 a.m. (local time) on April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Environmental and Technical Services Division, NMFS (503)–230–5430 or Gregory Miller, NMFS, (301)–713–1401.

SUPPLEMENTARY INFORMATION: NMFS published an emergency rule (59 FR 42529, August 18, 1994) pursuant to section 4(b)(7) of the ESA, 16 U.S.C. 1531 *et seq.*, that reclassified Snake River spring/summer chinook Snake River fall chinook as endangered. The emergency rule is effective for 240 days from the date of publication in the **Federal Register**. However, the emergency rule was published with an improper instruction. In reclassifying the species as ''endangered'' for 240 days, NMFS intended to temporarily ''suspend'' the regulation identifying the species as threatened during the period. However, NMFS inadvertently included amendatory language instructing that this regulation be ''removed,'' which provided permanent removal of the regulation from the CFR, rather than temporary suspension during the effective period of the emergency rule as intended. NMFS is implementing this final rule to remain consistent with its original intent and to ensure that, upon expiration of the 240-day effectiveness period of the emergency rule, the regulation identifying these salmon stocks as threatened will remain in place.

Classification

Pursuant to sections 553(b) and 553(d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the Assistant Administrator finds that there is good cause to waive the requirements for both prior notice of an opportunity for public comment, and the delayed effective date, respectively, because this rule is a technical amendment correcting a clerical error made in a prior rule. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine Mammals, Transportation.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.4, paragraphs (f) and (g) are added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(f) Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of spring/summer chinook salmon in the mainstream Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, and Salmon River.

(g) Snake River fall chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of fall chinook in the mainstem Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River.

3. Subpart C, Threatened Marine and Anadromous Fish, consisting of § 227.21 is added to read as follows:

Subpart C—Threatened Marine and Anadromous Fish

§ 227.21 Threatened salmon.

(a) *Prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1539) relating to endangered species apply to threatened species of salmon listed in § 227.4(f) and (g), except as provided in paragraph (b) of this section.

(b) *Exceptions.* The exceptions of section 10 of the Act (16 U.S.C. 1538) and other exceptions under the Act relating to endangered species, including regulations implementing such exceptions, also apply to the threatened species of salmon listed in § 227.4(f) and (g). This section supersedes other restrictions on the applicability of parts 217 through 222 of this chapter, including, but not limited to, the restrictions specified in §§ 217.2, 222.2(a) and 222.22(a) of this chapter with respect to the species identified in paragraph (a) of this section.

[FR Doc. 95–9440 Filed 4–13–95; 12:41 pm]

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This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–022–00006–3)	23.00	Jan. 1, 1994
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–022–00011–0)	23.00	Jan. 1, 1994
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–022–00015–2)	22.00	Jan. 1, 1994
900–999	(869–022–00016–1)	34.00	Jan. 1, 1994
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
***8**	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–022–00027–6)	29.00	Jan. 1, 1994
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
*51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–022–00038–1)	22.00	Jan. 1, 1994
500–599	(869–022–00039–0)	20.00	Jan. 1, 1994
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
*1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–022–00043–8)	26.00	Jan. 1, 1994
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–022–00047–1)	15.00	Jan. 1, 1994
300–799	(869–022–00048–9)	26.00	Jan. 1, 1994
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–022–00051–9)	18.00	Jan. 1, 1994
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–022–00077–2)	21.00	Apr. 1, 1994
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441-1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
30–39	(869–022–00097–7)	18.00	Apr. 1, 1994
40–49	(869–022–00098–4)	14.00	Apr. 1, 1994
50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–022–00102–7)	8.00	Apr. 1, 1994
27 Parts:			
1–199	(869–022–00103–5)	36.00	Apr. 1, 1994
200–End	(869–022–00104–3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869–022–00105–1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0–99	(869–022–00107–8)	21.00	July 1, 1994
100–499	(869–022–00108–6)	9.50	July 1, 1994
500–899	(869–022–00109–4)	35.00	July 1, 1994
900–1899	(869–022–00110–8)	17.00	July 1, 1994
1900–1910 (§§ 1901.1 to 1910.999)	(869–022–00111–6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869–022–00112–4)	21.00	July 1, 1994
1911–1925	(869–022–00113–2)	26.00	July 1, 1994
1926	(869–022–00114–1)	33.00	July 1, 1994
1927–End	(869–022–00115–9)	36.00	July 1, 1994
30 Parts:			
1–199	(869–022–00116–7)	27.00	July 1, 1994
200–699	(869–022–00117–5)	19.00	July 1, 1994
700–End	(869–022–00118–3)	27.00	July 1, 1994
31 Parts:			
0–199	(869–022–00119–1)	18.00	July 1, 1994
200–End	(869–022–00120–5)	30.00	July 1, 1994
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–022–00121–3)	31.00	July 1, 1994
191–399	(869–022–00122–1)	36.00	July 1, 1994
400–629	(869–022–00123–0)	26.00	July 1, 1994
630–699	(869–022–00124–8)	14.00	[5] July 1, 1991
700–799	(869–022–00125–6)	21.00	July 1, 1994
800–End	(869–022–00126–4)	22.00	July 1, 1994
33 Parts:			
1–124	(869–022–00127–2)	20.00	July 1, 1994
125–199	(869–022–00128–1)	26.00	July 1, 1994
200–End	(869–022–00129–9)	24.00	July 1, 1994
34 Parts:			
1–299	(869–022–00130–2)	28.00	July 1, 1994
300–399	(869–022–00131–1)	21.00	July 1, 1994
400–End	(869–022–00132–9)	40.00	July 1, 1994
35	(869–022–00133–7)	12.00	July 1, 1994
36 Parts:			
1–199	(869–022–00134–5)	15.00	July 1, 1994
200–End	(869–022–00135–3)	37.00	July 1, 1994
37	(869–022–00136–1)	20.00	July 1, 1994
38 Parts:			
0–17	(869–022–00137–0)	30.00	July 1, 1994
18–End	(869–022–00138–8)	29.00	July 1, 1994
39	(869–022–00139–6)	16.00	July 1, 1994
40 Parts:			
1–51	(869–022–00140–0)	39.00	July 1, 1994
52	(869–022–00141–8)	39.00	July 1, 1994
53–59	(869–022–00142–6)	11.00	July 1, 1994
60	(869-022-00143-4)	36.00	July 1, 1994
61–80	(869–022–00144–2)	41.00	July 1, 1994
81–85	(869–022–00145–1)	23.00	July 1, 1994
86–99	(869–022–00146–9)	41.00	July 1, 1994
100–149	(869–022–00147–7)	39.00	July 1, 1994
150–189	(869–022–00148–5)	24.00	July 1, 1994
190–259	(869–022–00149–3)	18.00	July 1, 1994
260–299	(869–022–00150–7)	36.00	July 1, 1994
300–399	(869–022–00151–5)	18.00	July 1, 1994
400–424	(869–022–00152–3)	27.00	July 1, 1994
425–699	(869–022–00153–1)	30.00	July 1, 1994
700–789	(869–022–00154–0)	28.00	July 1, 1994
790–End	(869–022–00155–8)	27.00	July 1, 1994
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–022–00156–6)	9.50	July 1, 1994
101	(869–022–00157–4)	29.00	July 1, 1994
102–200	(869–022–00158–2)	15.00	July 1, 1994
201–End	(869–022–00159–1)	13.00	July 1, 1994
42 Parts:			
1–399	(869–022–00160–4)	24.00	Oct. 1, 1994
400–429	(869–022–00161–2)	26.00	Oct. 1, 1994
430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–022–00163–9)	23.00	Oct. 1, 1994
1000–3999	(869–022–00164–7)	31.00	Oct. 1, 1994
4000–End	(869–022–00165–5)	14.00	Oct. 1, 1994
44	(869–022–00166–3)	27.00	Oct. 1, 1994
45 Parts:			
1–199	(869–022–00167–1)	22.00	Oct. 1, 1994
200–499	(869–022–00168–0)	15.00	Oct. 1, 1994
500–1199	(869–022–00169–8)	32.00	Oct. 1, 1994
1200–End	(869–022–00170–1)	26.00	Oct. 1, 1994
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–022–00172–8)	16.00	Oct. 1, 1994
70–89	(869–022–00173–6)	8.50	Oct. 1, 1994
90–139	(869–022–00174–4)	15.00	Oct. 1, 1994
140–155	(869–022–00175–2)	12.00	Oct. 1, 1994
156–165	(869–022–00176–1)	17.00	[7] Oct. 1, 1993
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–022–00178–7)	21.00	Oct. 1, 1994
500–End	(869–022–00179–5)	15.00	Oct. 1, 1994
47 Parts:			
0–19	(869–022–00180–9)	25.00	Oct. 1, 1994
20–39	(869–022–00181–7)	20.00	Oct. 1, 1994
40–69	(869–022–00182–5)	14.00	Oct. 1, 1994
70–79	(869–022–00183–3)	24.00	Oct. 1, 1994
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–022–00188–4)	13.00	Oct. 1, 1994
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
15–28	(869–022–00191–4)	32.00	Oct. 1, 1994
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–022–00193–1)	24.00	Oct. 1, 1994
100–177	(869–022–00194–9)	30.00	Oct. 1, 1994
178–199	(869–022–00195–7)	21.00	Oct. 1, 1994
200–399	(869–022–00196–5)	30.00	Oct. 1, 1994
400–999	(869–022–00197–3)	35.00	Oct. 1, 1994
1000–1199	(869–022–00198–1)	19.00	Oct. 1, 1994
1200–End	(869–022–00199–0)	15.00	Oct. 1, 1994
50 Parts:			
1–199	(869–022–00200–7)	25.00	Oct. 1, 1994
200–599	(869–022–00201–5)	22.00	Oct. 1, 1994
600–End	(869–022–00202–3)	27.00	Oct. 1, 1994
CFR Index and Findings Aids	(869–022–00053–5)	38.00	Jan. 1, 1994

Title	Stock Number	Price	Revision Date
Complete 1995 CFR set		883.00	1995
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1992
Complete set (one-time mailing)		223.00	1993
Complete set (one-time mailing)		244.00	1994
Subscription (mailed as issued)		264.00	1995
Individual copies		1.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1993, to September 30, 1994. The CFR volume issued October 1, 1993, should be retained.